

Idaho Special Education Manual 2007

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ACRONYMS AND ABBREVIATIONS

Section 504	Section 504 of the Rehabilitation Act of 1973
ABS	American Association on Mental Retardation Adaptive Behavior Scale
ADA	Americans with Disabilities Act
A.D.A.	Average Daily Attendance
ADD	Attention Deficit Disorder
ADHD	Attention Deficit Hyperactivity Disorder
ADR	Alternative Dispute Resolution
APR	Annual Performance Report
ASD	Autism Spectrum Disorder
ASHA	American Speech/Language Hearing Association
AT	Assistive Technology
ATRC	Assistive Technology Resource Center
AU	Autism
AYP	Adequate Yearly Progress
BIP	Behavioral Intervention Plan
CALP	Cognitive Academic Language Proficiency
CAP	Corrective Action Plan
CBM	Curriculum-Based Measurement
CDC	Child Development Center
CEC	Council for Exceptional Children
C.F.R.	Code of Federal Regulations
CI	Cognitive Impairment
CIP	Continuous Improvement Plan
CLD	Culturally or Linguistically Diverse
Co-Ad	Comprehensive Advocacy, Inc.
CS	Consultant Specialist (ends June 30, 2006)
DB	Deaf-Blindness
DD	Developmental Delay
DDA	Developmental Disabilities Agency
DHW	Department of Health and Welfare
DJC	Department of Juvenile Corrections
DMA	Direct Math Assessment
DOC	Department of Correction
DP	Due Process
DSM	Diagnostic Services Manual
DWA	Direct Writing Assessment
ECR	Early Complaint Resolution
ECSE	Early Childhood Special Education
ED	Emotional Disturbance
ENT	Ear, Nose and Throat
ESEA	Elementary and Secondary Education Act
ESL	English as a Second Language
ESY	Extended School Year

Acronyms and Abbreviations

FAE	Fetal Alcohol Effect
FAPE	Free and Appropriate Public Education
FAS	Fetal Alcohol Syndrome
FBA	Functional Behavioral Assessment
FERPA	Family Educational Rights and Privacy Act
GED	General Education Development
GEPA	General Education Provisions Act
GPA	Grade Point Average
GRPA	Government Performance Review Act
G/T	Gifted/Talented
HI	Health Impairment
HH	Hard of Hearing
HOUSSE	Highly Objective Uniform State Standard of Evaluation
IAA	Idaho Alternate Assessment
IAES	Interim Alternative Educational Setting
IASA	Improving America's School Act
IATP	Idaho Assistive Technology Project
IBEDS	Idaho Board of Education Data System
IBI	Intensive Behavioral Interventions
IC	Idaho Code
IDAPA	Idaho Administrative Procedures Act
IELS	Idaho Early Learning Standards
IDEA 2004	Individuals with Disabilities Education Improvement Act 2004
IDELR	Individuals with Disabilities Education Law Report
IDVR	Idaho Division of Vocational Rehabilitation
IEE	Independent Educational Evaluation
IELS	Idaho Early Learning Standards
IEP	Individual Education Program
IFSP	Individual Family Services Plan
IN	Individual (Medicaid Service Code)
IPUL	Idaho Parents Unlimited, Inc.
IQ	Intelligence Quotient
IRI	Idaho Reading Indicator
ISAT	Idaho Standards Achievement Test
ISBOE	Idaho State Board of Education
ISDB	Idaho School for the Deaf and Blind
ISEAP	Idaho Special Education Advisory Panel
ITC	Idaho Training Clearinghouse
ITP	Infant and Toddler Program
JDC	Juvenile Detention Center
LD	Learning Disability
LEA	Local Education Agency
LEP	Limited English Proficiency
LI	Language Impairment
LD	Learning Disability

Acronyms and Abbreviations

LG	Large Group, 3 or more (Medicaid Service Code)
LOA	Letter of Authorization (ends June 30, 2006)
LRE	Least Restrictive Environment
MD	Multiple Disabilities
MDT	Multidisciplinary Team
NAEP	National Assessment of Educational Progress
NCLB	No Child Left Behind Act
O & M	Orientation and Mobility
OCR	Office of Civil Rights
OI	Orthopedic Impairment
OMB	Federal Office of Management and Budget
OSEP	Office of Special Education Programs
OSERS	Office of Special Education and Rehabilitation Services
OT	Occupational Therapy
PBIS	Positive Behavioral Interventions and Supports
PBS	Positive Behavioral Supports
PERC	Parent Education Resource Center
PGI	Performance Goals and Indicators
PIR	Plan for Improving Results
PLOP	Present Levels of Performance
PSR	Psycho-Social Rehabilitation
PT	Physical Therapy
PTI	Parent Training and Information Center
PWN	Prior Written Notice
RTI	Response to Intervention
SBI	Serious Bodily Injury
SBE	State Board of Education
SBR	Scientifically-Based Research
SD	Standard Deviation
SDE	State Department of Education
SEA	State Education Agency
SEAP	Special Education Advisory Panel
SG	Small Group, 2 (Medicaid Service Code)
SI	Speech Impairment
SIG	State Improvement Grant
SLP	Speech-Language Pathologist
SOP	Summary of Performance (secondary)
SP	Services Plan
SPP	State Performance Plan
SS	Standard Score
TBI	Traumatic Brain Injury
VI	Visual Impairment
VI B	Entitlement dollars that are allocated to a state based on the number of children with disabilities that are reported to OSEP.

GLOSSARY

Academic achievement. A student's level of performance in basic school subjects, measured either formally or informally.

Accommodation. Changes in the curriculum, instruction, or testing format or procedures that enable students with disabilities to participate in a way that allows them to demonstrate their abilities rather than disabilities. Accommodations are generally considered to include assistive technology as well as changes in presentation, response, timing, scheduling, and settings that do not fundamentally alter the requirements. Accommodations do not invalidate assessment results.

Adaptation. Changes to curriculum, instruction, or assessments that fundamentally alter the requirements, but that enable a student with an impairment that significantly impacts performance an opportunity to participate. Adaptations include strategies such as reading the reading portion of a test, using spell/grammar check for language arts assessments, and substituting out-of-level testing. Adaptations invalidate assessment results and provide noncomparable results.

Adaptive behavior. Behavior that displays an age-appropriate level of self-sufficiency and social responsibility which includes the following areas: communication, self-care, home living, social/interpersonal skills, use of community resources, direction, functional academic skills, work, leisure, health, or safety.

Adverse Educational Impact. Any harmful or unfavorable influence that a disability has on a student's educational performance in academic (reading, math, communication, etc.) or non-academic areas (daily life activities, mobility, pre-vocational and vocational skills, social adaptation, self-help skills, etc.)

Adult student. A student with a disability, age 18 or older, to whom rights have transferred under the IDEA 2004 and Idaho Code.

Age-appropriate activities. Activities that typically-developing children of the same age would be performing or would have achieved.

Age of majority. The age at which, by law, a child assumes the responsibilities of an adult. In Idaho, the age of majority is 18.

Aggregated data. Information that is considered as a whole. In this manual, the term refers to collective data on all students, including students with disabilities.

Alternate assessment. A specific assessment, developed by the state in lieu of statewide assessments or by the district in lieu of districtwide assessments, designed to measure functional skills within the same domains required by the regular statewide or

districtwide assessments. It is designed for students who are unable to demonstrate progress in the typical manner and who meet the state-established criteria.

Alternative Authorization/Teacher to New Certification. One of the State Board of Education's alternative routes to teacher certification as outlined in the Idaho Certification Manual distributed by the Idaho State Department of Education. Effective July 1, 2006.

Alternative or supplementary curriculum. Curriculum not based on or drawn directly from the general education curriculum.

Alternative school. A public school placement option that may be utilized for students who are not succeeding in the traditional school environment but may benefit through the use of modified curriculum or flexible programming.

Articulation. The ability to speak distinctly and connectedly.

Articulation disorder. Incorrect productions of speech sounds, including omissions, distortions, substitutions and/or additions that may interfere with intelligibility.

Assessment. The formal or informal process of systematically observing, gathering, and recording credible information to help answer evaluation questions and make decisions. It is an integral component of the evaluation process. A test is one method of obtaining credible new information within the assessment process. Assessment data may also include observations, interviews, medical reports, data regarding the effects of general education accommodations and adaptations and interventions, and other formal or informal data.

Assistive technology device. Any item, piece of equipment, or product system whether acquired commercially, off a shelf, modified, or customized that is used to increase, maintain, or improve the functional capabilities of a student with a disability. Excludes surgically implanted medical devices.

Assistive technology service. Any service that directly assists a student with a disability with the assessment, selection, acquisition, or use of an assistive technology device.

Attention deficit disorder (ADD). A biologically based mental disorder that has these typical characteristics: short attention span; distractive behavior; difficulty following directions and staying on task; and an inability to focus behavior. The disorder compromises many skills needed for academic success, including starting, following through with, and completing tasks; moving from task to task; and following directions.

Attention deficit hyperactivity disorder (ADHD). A biologically based mental disorder in which a person has inappropriate degrees of inattention, impulsiveness and hyperactivity.

Audiologist. A licensed health care professional who diagnoses hearing loss and selects and fits hearing aids.

Autism. An IDEA 2004 disability category in which a developmental disability, generally evident before age 3, significantly affects verbal and nonverbal communication skills and social interactions and adversely affects educational performance. Other characteristics often associated with autism are engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines, and unusual responses to sensory experiences.

Behavioral intervention plan (BIP). A plan comprising practical and specific strategies designed to increase or reduce a definable behavior. These strategies address preventative techniques, teaching replacement behaviors, how to respond or resolve behaviors, and crisis management, if necessary.

Benchmark. A major milestone which describes the progress the student is expected to make toward annual goals within a specified period of time. Similar to an objective.

Braille. A tactile system of reading and writing, used by students who are blind or visually impaired, with an official code composed of Braille characters or cells that consist of various patterns of raised dots that correspond to alphabetic letters, punctuation marks and other symbols.

Business day. A workday (Monday through Friday) except for federal and state holidays, unless specifically included.

Case manager. A member of the evaluation and/or IEP team (usually the special education teacher) who is designated to perform administrative functions for the team, including: (1) setting up meetings; (2) ensuring appropriate forms are completed; (3) ensuring timelines are met; and (4) notifying participants of the times and dates of meetings.

Change of placement. Removal of a child with a disability from the child's current educational placement. When the removal is for disciplinary purposes, regulations apply, 34 CFR §300.536.

Change of placement for disciplinary reasons. A removal from the current educational placement for more than 10 consecutive school days or a series of removals that constitute a pattern when they total more than 10 school days in a school year. Factors such as the length of the removal, the proximity of the removals to one another, and the total amount of time the student is removed are indicators of a pattern.

Charter School within a District. A publicly funded, nonprofit, nonsectarian public school that is created by a formal agreement (charter) between a group of individuals and the board of trustees of the local school district and operates independently within the district. It is governed by the conditions of its approved charter and federal and state laws. It is the

responsibility of the local district to ensure that students attending such charter schools receive appropriate services as required by IDEA 2004, section 504 and the ADA.

Charter School LEA. A publicly funded, nonprofit, nonsectarian public school that operates as its own local education agency or district. Charter LEAs do not have an agreement with the local school district within whose boundaries they operate. Charter LEAs must be authorized by the Idaho Public Charter School Commission and are required to provide services in accordance with IDEA 2004, section 504 and the ADA.

Child. An individual who has not attained age 18.

Child Find. A process to locate, identify, and evaluate students who reside in the district and may be in need of special education.

Civil action. A judicial action that any party who is aggrieved by the final decision of a due process hearing officer may bring in either a federal district court or a state court of competent jurisdiction (as designated by the state).

Cognitive Academic Language Proficiency (CALP). A test to determine a student's appropriate language dominance/usage.

Cognitive impairment. An IDEA 2004 disability category in which subaverage intellectual functioning exists concurrently with deficits in adaptive behavior. These deficits are manifested during the student's developmental period and adversely affect the student's educational performance. The term "mental retardation" was previously used to refer to this condition.

Comparable benefit. The IDEA 2004 requirement that obligates districts to ensure that private school students with disabilities receive benefits that are comparable in quality, scope, and opportunity for participation in special education services funded by the IDEA 2004 to those students with disabilities enrolled in public schools.

Compensatory education. Educational services which are above and beyond those normally due a student under his or her state's education law. The principle is acknowledged by most courts that have considered the issue to be an appropriate remedy when a student has been denied free appropriate public education.

Compensatory remedy. A judicial order or administrative action intended to redress a violation of the rights of a student with a disability who has suffered a loss as a result of the wrongful or negligent act of another and to restore the student to the position he or she would have been in if the wrongful or negligent act had not occurred. The remedy may include the award of monetary reimbursement or other corrective actions as appropriate to the needs of the student.

Complaint. A formal written statement submitted to the Idaho State Department of Education by an individual or organization that contains one or more allegations and the facts on which the statement is based that a district or agency has violated a requirement of Part B of the IDEA 2004.

Consensus. Has two common meanings.

- (1) A general agreement among the members of a given group or community, each of which exercises some discretion in decision making and follow-up action.
- (2) A decision-making process that not only seeks the agreement of most participants, but also to resolve or mitigate the objections of the minority to achieve the most agreeable decision.

Consensus is usually defined as meaning both: a) general agreement, and b) the process of getting to such agreement. Consensus decision-making is thus concerned primarily with that process.

Consent. Voluntary, written approval of a proposed activity, as indicated by a parent/adult student signature. The parent/adult student must be fully informed in his or her native language or other mode of communication and must understand all information relevant to the activity to make a rational decision.

Conservator. A person appointed by the court to handle financial decisions for a person who is incapacitated or debilitated. In Idaho the conservator has all of the powers conferred in Idaho Statute 15-5-424 and any additional powers conferred by law on trustees in this state. In addition, a conservator of the estate of an unmarried minor under the age of eighteen (18) years, as to whom no one has parental rights, has the duties and powers of a guardian of a minor described in section 15-5-209 of this code until the minor attains the age of eighteen (18) or marries, but the parental rights so conferred on a conservator do not preclude appointment of a guardian as provided by part 2 of this chapter. Idaho Statute 15-5-424

Consultant Specialist (CS). The SDE may issue a Consultant Specialist letter of approval to use a highly and uniquely qualified individual in an educational position that normally requires formal certification. This provision expires June 30, 2006.

Controlled substance. Any drug so designated by law whose availability is restricted; i.e., so designated by federal Controlled Substances Acts. Included in such classifications are narcotics, stimulants, depressants, hallucinogens, and marijuana.

Core Academic Subjects. These include English, reading or language arts, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography under the ESEA (NCLB).

Corrective Action Plan (CAP). A plan that orders a district as a result of an IDEA 2004 complaint to take corrective actions to resolve legal deficiency as found by the SDE.

Critical life skill. Skills that lead to independent functioning. Development of these skills can lead to reduced dependency on future caretakers and enhance students' integration with nondisabled individuals. Skills may include such things as toileting, feeding, mobility, communication, dressing, self-help, and social/emotional functioning.

Dangerous weapon. A weapon, device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of causing death or serious bodily injury, except that such term does not include a pocket knife with a blade of less than 2 ½ inches in length.

Data-based decision making. The collecting of information that can be charted or graphed to document performance over time followed by an analysis of the information to determine needed changes in policies, programs, or procedures.

Day. Refers to a calendar day unless otherwise indicated as a business or school day.

Deaf-blindness. An IDEA 2004 disability category in which a student demonstrates hearing and visual impairments, and where the combination of these two disabilities causes such severe communication and other developmental and educational needs that the student cannot be accommodated with special education services designed solely for students with deafness or blindness.

Deafness. An IDEA 2004 disability category in which a hearing impairment is so severe that the student, with or without amplification, is limited in processing linguistic information through hearing, which adversely affects educational performance.

Detained youth. Anyone aged 3 through 21 who is being held for a crime regardless of whether or not that person has appeared before the court.

Developmental achievement. Gains a student makes which follow the pedagogic theory that all children learn in the same basic way and in the same sequence, although at different rates.

Developmental delay. An IDEA 2004 disability category used only for students ages 3 through 9 for whom a significant delay exists in one or more of the following skill areas: receptive/expressive language; cognitive abilities; gross/fine motor functioning; social/emotional development; or self-help/adaptive functioning. The use of this category is optional for districts.

Disaggregated data. Information that is reported and/or considered separately on the basis of a particular characteristic. In this manual, the term refers to data on special education

students as a group that is reported and/or considered separately from the same data on all students in a school, district, or state.

Discipline. A set of rules or techniques designed by a district for the purpose of minimizing disruption and promoting positive interaction.

Disclosure. The access to or the release, transfer or other communication of education records, or personally identifiable information contained in these records by oral, written, electronic, or other means.

Discrepancy formula. A method of determining the difference between a student's expected level of academic achievement and intellectual ability used to establish eligibility for special education under the category of learning disability.

Disproportionality. A disparity or inequality. In this manual, the term refers to a statistical range of data where students of a specific race or ethnicity are identified in either greater or fewer numbers than expected when compared to the representation of that race or ethnicity within the general school population. The areas addressed in the IDEA 2004 are: (1) identification as a student with a disability; (2) identifications a student with a specific category of disability; and (3) placement in a particular educational setting.

Dropout. A student who has left an education system before completion of requirements and is not known to be enrolled in any other educational program.

Dual enrollment. A child of school age who is enrolled in a nonpublic school or a public charter school and enrolled in a public school to participate in public school programs and activities, Idaho Statue 33-203.

Due process hearing. An administrative hearing conducted by an SDE-appointed hearing officer to resolve disputes on any matter related to identification, evaluation, educational placement, or the provision of a free appropriate public education.

Early Intervening Services. Services for students who need additional academic and behavioral support to succeed in a general education environment. These students have not been identified as having a disability.

Education record. A student's record maintained by an educational agency or institution, or by a party acting for the agency or institution, which may include, but is not limited to print, handwriting, computer media, video or audio tape, film, microfilm, and microfiche, but is not within the exceptions set out in FERPA.

Educational services agency, other public institution or agencies. (1) An educational service agency, as defined in 34 CFR §300.12; and (2) Any other public institution or agency having administrative control and direction of a public elementary school or secondary

school, including a public nonprofit charter school that is established as an LEA under State law.

Elementary school. The term 'elementary school' means a nonprofit institutional day or residential school, including a public elementary charter school, that provides elementary education, as determined under State law, 34 CFR §300.13. An elementary school includes a grade configuration of grades one (1) through eight (8) inclusive, or any combination thereof, Idaho Code 33-119.

Emotional disturbance. An IDEA 2004 disability category in which a student has a condition exhibiting one or more of five behavioral or emotional characteristics over a long period of time, and to a marked degree, that adversely affects educational performance. The term *does not* include students who are socially maladjusted unless it is determined they have an emotional disturbance. The term emotional disturbance *does* include students who are diagnosed with schizophrenia.

Essential Components of Reading Instruction. The term means explicit and systematic instruction in (a) phonemic awareness, (b) phonics, (c) vocabulary development, (d) reading fluency, including oral reading skills, and (e) reading comprehension strategies.

Evaluation. A term that means using all required procedures to determine whether a child has a disability and the nature and extent of the special education and related services that the child needs.

Evaluation team. A group of people, including the parent/adult student, charged with the responsibility to make decisions regarding evaluation, assessments, and eligibility. This team includes the same membership as the IEP team (although not necessarily the same individuals) and other qualified professionals as appropriate. The evaluation team may conduct its business with or without a meeting. However, if requested by the parent/adult student, a team meeting will be held.

Expedited due process hearing. An administrative hearing conducted by an SDE-appointed hearing officer to resolve disputes concerning discipline for which shortened timelines are in effect in accordance with the IDEA 2004.

Expulsion. Removal of a student from school for an extended period of time. For general education students, services usually cease during an expulsion.

Extended school year (ESY). A program to provide special education and related services to an eligible student with a disability beyond the conventional number of instructional days in a school year and at no cost to the parents. An ESY program must be based on an IEP team decision and meet Idaho standards.

Extracurricular activities. Programs sponsored by a district that are not part of the required curriculum but are offered to further the interests and abilities of students.

FAPE (see Free Appropriate Public Education).

FERPA (see Family Educational Rights and Privacy Act).

Family Educational Rights and Privacy Act (FERPA). A federal law protecting the privacy of students and parents by mandating that personally identifiable information about a student contained in education records must be kept confidential. FERPA also contains provisions for access to records by parents, students, staff, and others.

Fluency disorder. Stoppages in the flow of speech that are abnormally frequent and/or abnormally long. These interludes take the form of repetitions of sounds, syllables, or single syllable words; prolongations of sounds; or blockages of airflow and/or voicing in speech.

Free Appropriate Public Education (FAPE). A basic IDEA 2004 requirement which states that special education and related services are provided at public expense (free); in conformity with an appropriately developed IEP (appropriate); under public supervision and direction (public); and include preschool, elementary, and secondary education that meets the education standards, regulations, and administrative policies and procedures issued by the State Department of Education (education).

Functional achievement and performance. Gains made by a student which include programming in community living, reading, communication, self-care, social skills, domestic maintenance, recreation, employment or vocational skills. Also called independent living skills.

Functional behavioral assessment (FBA). A systematic process for defining problem behavior and gathering medical, environmental, social, and instructional information that can be used to hypothesize about the function of student behavior.

General education curriculum. The curriculum that is designed for all students, usually consisting of a common core of subjects and curriculum areas adopted by a district that are aligned to the Idaho Achievement Standards or district standards. The general education curriculum is defined by either the Idaho Achievement Standards or the district content standards if they are as rigorous.

General education interventions. Educational interventions designed to address 95% of the students using the core and supplemental curriculum interventions. Such interventions use whole-school approaches, scientifically based programs, and positive behavior supports, including accommodations and instructional interventions conducted in the general education environment. These interventions may also include professional development for teachers and other staff to enable such personnel to deliver scientifically based literacy instruction and/or instruction on the use of adaptive and instructional software.

Goal. A measurable statement that includes behavior, evaluation procedures and performance criteria and describes what the student is reasonably expected to accomplish from the specialized education program within the time covered by the IEP (generally one year).

Graduation. The point in time when a student meets the district requirements for receipt of a regular high school diploma.

Guardianship. A judicial determination under which a competent adult has the legal right and duty to deal with problems, make decisions, and give consent for an adult with a disability (at least 18 years of age) who cannot act on his or her own behalf. The court will specify the nature and scope of the guardian's authority.

Gun-Free Schools Act. Federal legislation enacted in 1994 requiring school districts and similar public agencies to adopt a policy generally requiring the expulsion from school for a period of not less than one year of any student determined to have brought a weapon to school, although permitting exceptions to be made on a case-by-case basis for students, including students with disabilities whose behavior is determined to be a manifestation of their disability.

Health impairment. An IDEA 2004 disability category in which a student exhibits limited strength, vitality or alertness, including heightened alertness to environmental stimuli that is due to chronic or acute health problems (such as asthma, ADD or ADHD, cancer, diabetes, epilepsy, Fetal Alcohol Syndrome, a heart condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, sickle cell anemia, Tourette syndrome and stroke) to such a degree that it adversely affects the student's educational performance.

Health services. See "School health services".

Hearing impairment. An IDEA 2004 disability category in which a student has a permanent or fluctuating hearing loss that adversely affects the student's educational performance but is not included under the category of deafness.

Highly Objective Uniform State Standard of Evaluation (HOUSSE). A rubric developed by the State Department of Education that can be used by a district as one way to determine if a teacher meets the federal definition of being "highly qualified" to teach in a given core academic subject and grade level designation.

Highly Qualified. The standard which personnel must possess with the appropriate certification, endorsement, licensure, coursework, training, skills and qualifications to provide educational services to students.

High school. A high school is any school that contains grade twelve (12). IDAPA 08.02.03 c.iii.

Homeless children and youth. Children and youth who lack a fixed, regular, and adequate nighttime residence.

Honig Injunction. A court order to remove a special education student from school or current educational placement due to factors of dangerousness. Districts are required to continue with the provision of FAPE.

Illegal use of drugs. The unlawful use, possession or distribution of substances identified under the Controlled Substances Act, but does not include the use of a drug taken under supervision by a licensed health care professional.

Independent educational evaluation (IEE). One or more assessment(s) conducted by a qualified examiner(s) who is not employed by or contracted by the public agency or district responsible for the education of the student in question.

Individualized Education Program (IEP). A written document (developed collaboratively by parents and school personnel) which outlines the special education program for a student with a disability. This document is developed, reviewed and revised at an IEP meeting at least annually.

Individualized Education Program (IEP) Team. A team established by the IDEA 2004 and comprised of the student's general education teacher, a special education teacher, a district representative, parents, the student when appropriate, and other knowledgeable persons. The team is responsible for developing an IEP, determining placement, and reviewing and revising the student's IEP and placement at least annually.

Individualized Family Service Plan (IFSP). A written individualized plan for an infant or toddler with a disability that is developed by a multidisciplinary team, including the parents, reference Public Law 108-446, Section 636(C).

Initial provision of service. The first time that a child with a disability is provided special education services. This is also referred to as the "initial placement" and means the first time a parent is offered special education and related services for their child after an initial evaluation.

In-lieu of transportation. Alternate method of transporting students to and from school.

In-school suspension. A disciplinary technique, considered a less restrictive alternative to sending a student home, that involves excluding the student from the regular classroom and assigning him or her to a temporary location where students work and receive a minimum amount of privileges.

Instructional intervention. An action or strategy based on an individual student's problem that is designed to remedy, improve, or eliminate the identified problem.

Intensive Behavioral Intervention (IBI). Individualized, comprehensive, proven interventions used on a short-term, one-to-one basis that produce measurable outcomes which diminish behaviors that interfere with the development and use of language and appropriate social interaction skills or broaden an otherwise severely restricted range of interest. Students who may be eligible for IBI display self-injurious, aggressive or severely maladaptive behavior and severe deficits in the areas of verbal and nonverbal communication, social interaction or leisure and play skills.

Interagency agreement. A written document that defines the coordination between the state and/or public/private agencies and/or districts with respect to the responsibilities of each party for providing and funding programs and services.

Interim alternative educational setting (IAES). The educational setting in which a district may place a student with a disability, for not more than 45 school days, if the student while at school, on school premises or at a school function carries a weapon or possesses a weapon; possesses, uses, sells or solicits the sale of drugs or controlled substances; or has inflicted serious bodily injury upon another person. An IAES may also be ordered by a due process hearing officer based upon evidence that maintaining the current placement is substantially likely to result in injury to the student or others.

Interim IEP. A short-term IEP with all the components of a standard IEP developed by the IEP team. It may be used for students transferring from other districts pending the development of the standard IEP.

Interpreting services. Oral transliteration services, cued language transliteration services, sign language transliteration and interpreting services, and transcription services, such as communication access real-time translation (CART), C-Print, and TypeWell; and special interpreting services for children who are deaf-blind. (34 CFR §300.34.4.i)

Intervention Plan (I-Plan). An individual intervention plan designed by a team to improve a student's academic performance or behavior through general education interventions. This plan must be documented, and include the development, implementation and monitoring of the plan.

Itinerant specialist. A teacher who normally travels and provides services to students in different schools or in the home or consults with teachers and administrators.

Joint custody. A court order awarding custody of a minor child to both parents and providing that physical and/or legal custody shall be shared by the parents.

Joint legal custody. A court order providing that the parents of a child are required to share the decision-making rights, responsibilities, and authority relating to the health, education, and general welfare of the child.

Joint physical custody. A court order awarding each of the parents significant periods of time in which a child resides with or is under the care and supervision of each of the parents. The actual amount of time is determined by the court.

Language impairment. An IDEA 2004 disability category in which a delay or disorder exists in the development of comprehension and/or the uses of spoken or written language and/or other symbol systems and which adversely affects the student's educational performance. A language impairment may involve any one or a combination of the following: the form of language (morphological and syntactic systems); the content of language (semantic systems); and/or the function of language in communication (pragmatic systems).

Learning disability. An IDEA 2004 disability category in which a specific disorder of one or more of the basic psychological processes involved in understanding or in using spoken or written language may manifest itself in an imperfect ability to listen, think, speak, read, write, spell or do mathematical calculations, adversely affecting the student's educational performance. The term includes such conditions as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia and developmental aphasia. The term does not include a student who has needs that are primarily the result of visual, hearing, or motor disabilities; cognitive impairment; emotional disturbance; or environmental, cultural, or economic disadvantage.

Least Restrictive Environment (LRE). The IDEA 2004 requirement that students with disabilities, including those in public or private institutions or other care facilities, be educated with students who are nondisabled to the maximum extent appropriate.

Limited English proficient (LEP). Students from language backgrounds other than English who need language assistance services in their own language or in English in the schools and who meet one or more of the following conditions: (1) the student was born outside of the United States or his or her native language is not English; (2) the student comes from an environment where a language other than English is dominant; or (3) the student is American Indian or Alaskan Native and comes from an environment where a language other than English has had a significant impact on his or her level of English language proficiency. The student also has sufficient difficulty speaking, reading, writing, or understanding the English language to deny him or her the opportunity to learn successfully in English-only classrooms.

Local Educational Agency (LEA). A public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or for a combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary schools or secondary schools.

Manifestation determination. A determination by the IEP team of whether or not the misconduct of a student with a disability was (1) a demonstration of the disability, that is,

an inability to understand impact and consequences or an inability to control behavior; (2) the result of an inappropriate placement; and/or (3) the lack of provision of services consistent with the IEP and placement.

McKinney-Vento Homeless Assistance Act. This law is designed to address the problems that homeless children and youth have faced in enrolling, attending, and succeeding in school. Under this program, state educational agencies (SEAs) must ensure that each homeless child and youth has equal access to the same free, appropriate public education, including a public preschool education, as other children and youth.

Mediation. A voluntary, informal process in which an impartial third party mediator helps parents and district or agency personnel resolve a conflict. Mediation usually results in a written agreement that is mutually acceptable to both parties.

Medicaid Services (School-Based). Those related services, assessment and plan development for students receiving Medicaid which school districts may bill for reimbursement.

Medical Services. Medical services means services provided by a licensed physician to determine a child's medically related disability that results in the child's need for special education and related services, as defined in 34 CFR §300.34(c)(5).

Middle school. A middle school is a school that does not meet the definition of an elementary school and contains grade eight (8) but does not contain grade twelve (12).
IDAPA 08.02.03 c.ii.

Migrant Student. A student of compulsory school attendance age who has not graduated from high school or completed a high school equivalency certificate and resides within a family that is composed of migrant fisher or agricultural workers. The student has moved within the preceding 36 months in order for the family to obtain or seek this type of temporary or seasonal employment that is a principal means of livelihood.

Monitoring. An activity conducted by the State Department of Education to review a school district's compliance with federal laws, regulations, and state rules.

Multiple disabilities. An IDEA 2004 disability category in which two or more impairments co-exist (excluding deaf-blindness), whose combination causes such severe educational problems that the student cannot be accommodated in special education services designed solely for one of the impairments. Multiple disabilities are generally lifelong, significantly interfere with independent functioning, and may necessitate environmental accommodations and adaptations to enable the student to participate in school and society.

Native language. The language or mode of communication normally used by an individual or, in the case of a student, the language normally used by the student's parents. In direct contact with a student, the native language would be the language or mode of

communication normally used by the student and not the parents, if there is a difference between the two.

New teacher. A teacher who has less than one year of teaching experience.

Nonpublic school. An educational institution providing instruction outside a public school, including but not limited to a private school or home school.

Nonpublic school student. Any student who receives educational instruction outside a public school classroom, including but not limited to a private school or home school student.

Nonprofit. The term 'nonprofit', as applied to a school, agency, organization, or institution, means a school, agency, organization, or institution owned and operated by 1 or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual, Public Law 108-446, Section 602 (21).

Nursing Services. See "School health services"

Objectives. Measurable, intermediate steps that describe the progress the student is expected to make toward an annual goal in a specified amount of time; similar to a benchmark.

Occupational therapist. A professional licensed through the Bureau of Occupational Licenses who, in a school setting, is responsible for assessing fine motor skills, including student's use of hands and fingers and developing and implementing plans for improving related motor skills. The occupational therapist focuses on daily living skills such as eating, dressing, schoolwork, play, and leisure.

Office of Special Education Programs (OSEP). The branch of the Office of Special Education and Rehabilitative Services (OSERS) within the U.S. Department of Education which is responsible for administering programs relating to the free appropriate public education to all eligible beneficiaries.

Orientation and mobility (O&M) services. Services provided by qualified personnel to blind and visually impaired students to enable these students to attain systematic orientation to and safe movement within the home, school, and community, including teaching (1) spatial and environmental concepts and use of information received by the senses to establish, maintain, or regain orientation and line of travel; (2) use of the long white cane, or a service animal, as appropriate to supplement visual travel skills or as a tool for safely negotiating the environment for students with no available travel vision; (3) understanding and use of remaining vision and distance aids; and (4) other concepts, techniques, and tools.

Orthopedic impairment. An IDEA 2004 disability category that includes physical impairments that adversely affects a student's educational performance and are caused by congenital

anomaly (e.g., clubfoot, absence of an appendage, etc.); disease (e.g., poliomyelitis, bone tuberculosis, etc.); or from other causes (e.g., cerebral palsy, amputations, and fractures or burns that cause contracture).

Paraprofessional. A noncertified, nonlicensed individual who is employed by a district and who is appropriately trained and supervised in accordance with state standards to assist in the provision of special education and related services.

Parent. A biological, adoptive or foster parent, a legal guardian, a person acting as a parent, or a surrogate parent who has been appointed by the district. The term “acting as a parent” includes persons such as a grandparent or stepparent with whom the student lives as well as persons who are legally responsible for a student’s welfare. The term does not include state agency personnel if the student is a ward of the state. A foster parent may act as a parent if the biological parent’s authority to make education decisions on behalf of his or her child has been terminated by legal action and the foster parent meets the criteria outlined in Chapter 11.

Parent and/or Adult student.

- (1) A biological or adoptive parent of a child;
- (2) A foster parent who has lived with the child for 6 or more months;
- (3) A guardian generally authorized to act as the child’s parent, or authorized to make educational decisions for the child (but not the State if the child is a ward of the State);
- (4) An individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child lives, or an individual who is legally responsible for the child’s welfare; or
- (5) A surrogate parent who has been appointed by the school district. If the child is a ward of the state, the judge overseeing the child’s case may appoint the surrogate. The surrogate may not be an employee of the state or local education agency or any other agency that is involved in the education or care of the child, has no personal or professional interest which conflicts with the interest of the child, has knowledge and skills that ensure adequate representation of the child.

Part B. Part of the IDEA 2004 that relates to the assistance to states for the education of students with disabilities who are ages 3 through 21. Part B is administered by the State Department of Education and carried out by school districts and other public agencies.

Part C. Part of the IDEA 2004 that relates to the assistance to states for the education of children with disabilities and the early intervention programs for infants and toddlers, ages birth through 2, with disabilities. In Idaho, Part C is administered by the Department of Health and Welfare.

Peer-reviewed research. A higher level of non-biased research, which has been accepted by a peer-reviewed journal or approved by a panel of independent experts through a comparably rigorous, objective and scientific review.

Personally identifiable information. Includes but not limited to, student's name, name of parent or other family member, address of student or family, social security number, student number, list of personal characteristics that would make the student's identity easily traceable, or other information that would make it possible to identify the student with reasonable certainty.

Phonology. The process used in our language that has common elements (sound patterns) which affect different sounds.

Phonology disorders. Phonology disorders are errors involving phonemes, sound patterns and the rules governing their combinations.

Physical therapist. A professional licensed through the Bureau of Occupational Licenses who, in the school setting, assesses students' needs and provides interventions related to gross motor skills. In working with students with disabilities, the physical therapist provides treatment to increase muscle strength, mobility, endurance, physical movement and range of motion; improve posture, gait and body awareness; and monitor function, fit and proper use of mobility aids and devices.

Plan for Improving Results (PIR). A plan developed collaboratively between the SDE and a district to address needs identified as a result of the district's self-evaluation and/or an SDE monitoring visit.

Positive Behavioral Supports (PBS). Positive reinforcers, rewards or consequences provided to a child for specific instances of behavior that impedes learning or the learning of others (or refraining from behavior) as appropriate for the purpose of allowing the student to meet his or her behavioral goals/benchmarks.

Power of attorney. The designation, in writing, by a competent person of another to act in place of or on behalf of another person.

Present level of performance. A statement of the student's current level of achievement or development in an area of need and how the student's disability affects his or her involvement and progress in the general education curriculum offered to students without disabilities.

Private school. A school that is not funded by or under federal or state control or supervision.

Problem-solving team. A general education team established at the local level, whose name may vary, with the purpose to problem solve regarding the educational needs of any student. Procedures, meeting schedules, and team membership are established locally. The team is likely to include general educators and administrators and could include counselors, specialists, and special education personnel. Parent participation is valuable, but not required.

Procedural safeguards. The formal requirements of Part B of the IDEA 2004 that are designed to allow a parent/adult student to participate meaningfully in decisions concerning an appropriate educational program for a student with a disability and, if necessary, dispute such decisions. Also referred to as special education rights.

Professional Development. High-quality comprehensive programs that are essential to ensure that persons responsible for the education or transition of students with disabilities possess the skills necessary to address the educational and related needs of these students. These should be scientifically-based and reflect successful practices including strategies for recruiting, hiring, preparing and retaining personnel.

Psychosocial Rehabilitation (PSR). These services assist the student in gaining and utilizing skills necessary to participate in school, such as training in behavior control, social skills, communication skills, appropriate interpersonal behavior, symptom management, activities of daily living, study skills, and coping skills. This service is to prevent placement of the student into a more restrictive educational situation.

Public expense. When a district or public agency either pays for the full cost of an evaluation or special education services or ensures that it is otherwise provided at no cost to the parent; for example, through joint agreements with other state agencies.

Reading Components. The term “reading” means a complex system of deriving meaning from print that requires all of the following skills, which are the essential components of reading instruction:

- (1) Phonemic awareness: The skills and knowledge to understand how phonemes, or speech sounds, are connected to print;
- (2) Phonics: The ability to decode unfamiliar words;
- (3) Reading fluency: The ability to read fluently;
- (4) Vocabulary development: Sufficient background information and vocabulary to foster reading comprehension; and
- (5) Reading comprehension: The development of appropriate active strategies to construct meaning from print.

Reasonable measures. A combination of recorded written and/or oral documentation to meet notification requirements of the district to parents/adult students.

Reasonable time. A period of approximately 10 calendar days.

Reevaluation. A periodic evaluation conducted at least every three years, or more frequently if conditions warrant, or if the student’s parent or teacher requests an evaluation of a student already identified as eligible for services under the IDEA 2004. Reevaluations may occur not more than once a year, unless the parent and the district agree otherwise.

Related services. Refers to transportation and such developmental, corrective, and other supportive services required to assist a student with a disability to benefit from special education and includes the following: speech therapy, language therapy, audiology services, psychological services, physical therapy, occupational therapy, recreation, therapeutic recreation, early identification and assessment of disabilities in children, counseling services, rehabilitation counseling, orientation and mobility services, interpreting services, medical services for diagnostic or evaluation purposes, school health/nursing services (excluding surgically implanted medical devices), social work services in schools, and parent counseling and training.

Response to Intervention (RTI). A formal process for evaluating student response to scientifically research-based interventions, consisting of the core components of: (1) problem identification, (2) problem analysis, (3) applying research-based interventions, and (4) progress monitoring/decisions rules.

Resolution session. A preliminary meeting involving the parents, relevant members of the IEP team, and a representative of the district who has decision-making authority, required prior to a due process hearing.

School age. Includes all persons 5 (i.e., turns 5 on or before September 1) through 21 years who reside in Idaho. For students with disabilities who qualify for special education and related services under the IDEA 2004, school age begins at age 3 and continues through the semester of school in which the student attains the age of 21.

School day. Any day, including a partial day, that students are in attendance at school for instructional purposes.

School health services. School health services and school nurse services means health services that are designed to enable a child with a disability to receive FAPE as described in the child's IEP. School nurse services are services provided by a qualified school nurse. School health services are services that may be provided by either a qualified school nurse or other qualified person.

School psychologist. A professional who holds an Idaho Pupil Personnel Services Certificate with an endorsement in Psychology and is charged with the responsibility to conduct assessments and determine a student's cognitive, academic, social, emotional, and/or behavioral functioning. This professional also provides direct services to students, consults with district staff, and may be a member of the evaluation and/or IEP team.

Scientifically-Based Research (SBR). The term scientifically-based research means research that applies rigorous, systematic, and objective procedures to obtain valid knowledge relevant to core academic development, instruction, and difficulties; and includes research that: (a) employs systematic, empirical methods that draw on observation or experiment; (b) involves rigorous data analyses that are adequate to test the stated hypotheses and justify the general conclusions drawn; (c) relies on measurements or

observational methods that provide valid data across evaluators and observers and across multiple measurements and observations; and (d) has been accepted by a peer-reviewed journal or approved by a panel of independent experts through a comparably rigorous, objective, and scientific review.

Screening. An informal, although organized process, of identifying students who are not meeting or who may not be meeting Idaho Content Standards.

Secondary school. The term `secondary school' means a nonprofit institutional day or residential school, including a public secondary charter school, that provides secondary education, as determined under State law, except that it does not include any education beyond grade 12, 34 CFR §300.36. The term “secondary school” is not defined in Idaho Code, see “high school.”

Secular. An adjective used to describe a private, non-religious educational entity.

Serious Bodily Injury (SBI). Bodily injury which involves (a) a substantial risk of death; (b) extreme physical pain; (c) protracted and obvious disfigurement; or (d) protracted loss or impairment of the function of bodily member, organ, or mental faculty.

Services Plan (SP). Services plan means a written statement that describes the special education and related services the LEA will provide to a parentally-placed child with a disability enrolled in a private school who has been designated to receive services, including the location of the services and any transportation necessary, consistent with Section 34 CFR §300.132, and is developed and implemented in accordance with Sections 34 CFR §300.137 through 34 CFR §300.139, 34 CFR §300.37.

Setting. The location where special education services occur.

Social worker. A professional who holds an Idaho Pupil Personnel Services Certificate with an endorsement in Social Work and helps students and teachers address social and emotional issues. This professional may be a member of the evaluation and/or IEP team.

Socially maladjusted. A child who has a persistent pattern of violating societal norms with truancy, substance abuse, a perpetual struggle with authority, is easily frustrated, impulsive, and manipulative, Doe v. Board of Education of the State of Connecticut, (D. Conn. Oct. 24, 1990).

Special education. Specially designed instruction or speech/language therapy at no cost to the parent to meet the unique needs of a student with a disability including instruction in the classroom, the home, hospitals, institutions, and other settings; instruction in physical education; speech therapy and language therapy; transition services; travel training; assistive technology services; and vocational education.

Special educational placement. Refers to the provision of special education services, rather than a specific place, such as a specific classroom or school. The balance of setting and services to meet an individual student's needs.

Specially designed instruction. Adapting the content, methodology, or delivery of instruction to address the unique needs of an eligible student that result from the student's disability and to ensure access to the general education curriculum so that the student can meet the education standards of that district that apply to all students.

Speech impairment. An IDEA 2004 disability category that includes articulation/phonology, voice, and fluency disorders.

Speech-language pathologist. A professional holding an Idaho Pupil Personnel Services Certificate who can assess and treat persons with speech, language, voice, and fluency disorders. This professional coordinates with and may be a member of the evaluation and IEP teams.

Student (School Age). For resident children with disabilities who qualify for special education and related services under the federal individuals with disabilities education act (IDEA) and subsequent amendments thereto, and applicable state and federal regulations, "school age" shall begin at the attainment of age three (3) and shall continue through the semester of school in which the student attains the age of twenty-one (21) years.

Stay put. A requirement that a district or agency maintain a student with a disability in his or her present educational placement while a due process hearing or subsequent judicial proceeding is pending unless the parties agree otherwise.

Substantial evidence. A legal term that means "beyond a preponderance of the evidence" or "beyond more likely than not."

Summary of Performance (SOP). A document given to secondary students when a student exits special education as a result of earning a diploma or aging out. This document describes the academic achievement and functional performance along with recommendations to assist the student in meeting post secondary goals.

Supplementary aids and services. Accommodations and adaptations that must be made to the general education classroom and/or curriculum to ensure the satisfactory participation of a student with a disability, including supports to the general education teacher.

Surrogate parent. An individual assigned and trained by a district or an agency to assume the rights and responsibilities of a parent under the IDEA 2004 when no parent can be identified or located for a particular student or when the child is a ward of the state.

Suspension. A temporary stop, delay, interruption, or cessation of educational services.

Traditional public school. "Traditional public school" means any school existing or to be built that is operated and controlled by a school district in this state, Idaho Statute, Chapter 33-5202A(7).

Transition Services. A coordinated set of activities for a student with a disability designed within an outcome-oriented process. Services are based on individual student needs addressing instruction, related services, community experiences, employment, postschool adult living objectives, and, when appropriate, acquisition of daily living skills and functional vocational evaluation.

Traumatic brain injury (TBI). An IDEA 2004 disability category that refers to an injury to the brain caused by an external physical force and resulting in a total or partial functional disability or psychosocial impairment, or both, that adversely affects educational performance. The term applies to open or closed head injuries resulting in impairments in one or more areas such as cognition, language, memory, attention, reasoning, abstract thinking, judgment, problem solving, sensory perception and motor abilities, psychosocial behavior, physical functions, information processing, and speech. The term does not apply to congenital or degenerative brain injuries or to brain injuries induced by birth trauma.

Travel training. Instruction to students with significant cognitive disabilities and any other students with disabilities who require instruction to enable them to develop an awareness of the environment in which they live and to learn the skills necessary to move effectively and safely from place to place within the home, school, and community.

Twice Exceptional. Twice exceptional students are identified as gifted and talented in one or more areas of exceptionality (specific academics, general intellectual ability, creativity, leadership, visual or performing arts) and also identified with a disability defined by State eligibility criteria (LD, ED, Autism, Orthopedic Impairments, or ADHD) that qualifies the student for an IEP or a 504 plan.

Unilateral placement. A decision by a parent, at his or her own discretion, to remove his or her child with a disability from a public school and enroll the student in a private facility because the parent believes that the district did not provide FAPE in a timely manner.

Universal Design. A concept or philosophy for designing and delivering products and services that are usable by people with the widest possible range of functional capabilities, which include products and services that are directly usable (without requiring assistive technologies) and products and service that are made usable with assistive technologies.

Visual impairment including blindness. An IDEA 2004 disability category characterized by an impairment in vision that, even with correction, adversely affects a student's educational performance. The term includes partial sight, which refers to the ability to use vision as

one channel of learning if educational materials are adapted, and blindness, which refers to the prohibition of vision as a channel of learning, regardless of the adaptation of materials.

Voice disorder. An IDEA 2004 disability category that refers to the absence or abnormal production of voice quality, pitch, intensity, or resonance. Voice disorders may be the result of a functional or an organic condition.

Voluntary enrollment in a private placement. Enrollment by a parent of a student with a disability in a private facility or home school for religious, philosophical, curricular, or other personal reasons.

Ward of the State. A child who, as determined by the State where the child resides, is a foster child (unless the foster parent meets the definition of a parent in Section 34 CFR §300.30), a ward of the State, or in the custody of a public child welfare agency. (34 CFR §300.45)

Weapon. See “Dangerous Weapon.”

Written notice. A written statement provided by the district to a parent/adult student within a reasonable amount of time proposing or refusing to initiate or change the identification, evaluation, educational placement, or the provision of FAPE.

Chapter 2

Free Appropriate Public Education

The local education agency (district) is required to ensure that a free appropriate public education (FAPE) is available to students in the district and who are eligible for special education. FAPE is individually determined for each student with a disability. FAPE *must* include special education in the least restrictive environment (LRE) and *may* include related services, transition services, supplementary aids and services, and/or assistive technology devices and services. A definition of each of these terms can be found in the glossary.

Section 1. Definition of a Free Appropriate Public Education (FAPE)

The definition of FAPE under the Disabilities Education Improvement Act of 2004 (IDEA 2004) means special education and related services that:

1. are provided at public expense (free);
2. are provided in conformity with an appropriately developed individualized education program, or IEP (appropriate);
3. are provided under public supervision and direction (public); and
4. include an appropriate preschool, elementary, and secondary education that meets the education standards, regulations, and administrative policies and procedures issued by the State Department of Education (education).

Section 2. Provision of FAPE

A. District Obligation

The district is required to ensure that FAPE is available to students in the district who are eligible for special education. This includes students who reside in group, personal care, or foster homes, as well as institutions, if their legal guardian is a resident of Idaho, even though the guardian may reside in another Idaho school district. It also includes students who are migratory or homeless as defined by the McKinney-Vento Homeless Act (see Glossary). If a student from another state is placed in Idaho by an out-of-state agency, parent, or district, the placing district, parent, or agency is responsible for the educational costs. If a student is placed in a district by an Idaho agency, the student is entitled to FAPE and the responsible agency is determined upon Idaho Code regarding the specific situation.

The district is obligated to make FAPE available to each eligible student in the district as follows:

1. The district shall provide FAPE to an individual who is at least 3 years old and who qualifies for special education services unless the parent and/or adult student has refused special education services.
2. The district shall offer FAPE to parentally placed private students in accordance to statutory and regulatory language, which states that parentally placed private school students with disabilities do not have an individual right to some or all of the special education and related services that the student would receive if enrolled in a public school.
3. A free appropriate education shall be available to any individual child with a disability who needs special education and related services, even though the child has not failed or been retained in a course, and is advancing from grade to grade.

Note: Participation in Early Intervening Services neither limits nor creates a right to FAPE.

B. Limit to District Obligation

1. The district is not obligated to provide some or all special education and related services, if it has been offered, but a parent elected to place the student in a private school or facility. However the district shall include that student in the population whose needs are addressed consistent with Child Find requirements. See Chapter 9 for more information.
2. Students who are home schooled and dually enrolled are considered private school students for the purposes of dual enrollment. The same procedures would be available to these students as parentally placed private school students who are dually enrolled.

C. When District Obligation to Provide FAPE Ends

1. the semester in which the student turns 21 years old; or
2. when the student meets the district requirements that apply to all students for receipt of a regular high school diploma; a regular high school diploma does not include an alternative degree that is not fully aligned with the Idaho Content Standards, such as a certificate or a general educational development credential (GED).
3. when the student no longer meets the eligibility criteria for special education services, as determined by the team after a reevaluation.

D. Temporary Suspension of FAPE

The district is not required to provide FAPE to an eligible student during the suspension of 10 cumulative school days or less during a school year; however, FAPE must be provided following this 10-day exception.

Chapter 3

CHILD FIND

The Child Find system involves three basic steps leading to the determination of whether or not a student has a disability and requires special education. The steps are location, identification, and evaluation. This chapter describes location and identification activities. The evaluation process is covered in Chapter 4.

Section 1. District Responsibility

The district is responsible for establishing and implementing an ongoing Child Find system to locate, identify, and evaluate students suspected of having a disability, ages 3 through the semester they turn 21, who may need special education, regardless of the severity of the disability. The district is also responsible for coordinating with the Department of Health and Welfare (DHW) regarding the Child Find system for children ages birth through 2 years. The district may appoint an individual to coordinate the development, revision, implementation, and documentation of the Child Find system.

The Child Find system shall include all students within the district's geographic boundaries including students who are:

1. enrolled in public school;
2. enrolled in charter and alternative schools;
3. enrolled in home school;
4. enrolled in private elementary and secondary schools (including religious schools) located in the district; including out-of-state parentally-placed private school children with disabilities;
5. not enrolled in elementary or secondary school, including children ages 3 through 5;
6. advancing from grade to grade;
7. highly mobile students (such as migrant and homeless as defined by the McKinney-Vento Homeless Act [see Glossary]); and
8. wards of the state.

Section 2. Locating Students

Locating students who may have disabilities involves coordinating with other agencies and promoting public awareness.

A. Coordination

For infants and toddlers, birth through 2 years of age, Child Find is provided by the Idaho Infant Toddler Program. Although lead responsibility for the Infant Toddler Program has been designated to the DHW, interagency agreements provide for collaboration and coordination. The district shall use local interagency agreements for efficient use of resources and ease of service accessibility for students and families.

B. Public Awareness

The district shall take the necessary steps to ensure that district staff and the general public are informed of the following:

1. the availability of special education services;
2. a student's right to a free appropriate public education (FAPE);
3. confidentiality protections; and
4. the referral process.

This information may be provided through a variety of methods such as distributing brochures or flyers, including information in school or district publications, disseminating articles and announcements to newspapers, arranging for radio and television messages and appearances, speaking at faculty meetings or district in-services and making presentations.

Section 3. Identification

The identification component of Child Find includes screening, early intervening through a problem-solving process, and referral to consider a special education evaluation. The procedural rights under the Individuals with Disabilities Education Improvement Act of 2004 (IDEA 2004) are afforded when the student is referred for a special education evaluation by the parent and/or adult student or the district.

A. Screening

Screening is an informal, although organized process, of identifying students who are not meeting or who may not be meeting Idaho Content Standards or Idaho Early Learning Standards. A variety of methods may be used to screen students, including performance on statewide

assessments, curriculum-based measures, daily work in the classroom, teacher observations, hearing and vision screeners, developmental milestones, and/or kindergarten readiness measures.

Screening for instructional purposes is not an evaluation. The screening of a student by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation shall not be considered to be an evaluation for eligibility for special education and related services.

Although screening is an important part of the Child Find system, screening cannot be used to delay processing a referral to consider a special education evaluation where immediate action is warranted.

B. General Education Intervention (Early Intervening Services)

Under the LEA funding option, early intervening services are services for K-12 students who need additional academic and behavioral support to succeed in the *general education environment*. When a school's screening process reveals that a student or groups of students are at risk of not meeting the Idaho Content Standards, the general education problem-solving team shall consider the students' need for "supported" instructional interventions in order to help the students succeed. These interventions are referred to as early intervening services or general education interventions, accommodations, and strategies. It is important to remember that students who receive early intervening services are not currently identified as needing special education or related services and do not have a right to FAPE. Therefore, the IDEA 2004 procedural safeguards are not applicable at this time.

Districts shall implement coordinated services and activities that involve providing educational and behavioral evaluations, services, and supports. These services may also include professional development for teachers and other staff to enable them to deliver scientifically based academic and behavioral interventions, including scientifically based literacy instruction, and where appropriate, instruction on the use of adaptive and instructional software. Early intervening services should be based on whole-school approaches such as; the three-tiered model, scientifically based curriculum and instruction, positive behavior supports, and a response to intervention system.

If a district chooses to use up to 15% of Title VI-B federal funds for Early Intervening Services for students in K-12 who are not currently identified as needing special education but who need additional support in the general education environment, additional requirements may apply that will affect maintenance of effort .

If a district is found to have a significant disproportionate representation in special education, there are additional requirements for use of funds in Early Intervening Services. Please see Chapter 10 for more information on Early Intervening Services.

General Education Problem Solving

1. Establishing a Problem-Solving Team

The district shall establish a problem-solving team and a process to plan accommodations and interventions in general education and to ensure that referrals to consider a special education evaluation are appropriate. Team membership is established by the school or the district and would likely involve general educators and administrators, and could include counselors, specialists, and special education personnel. While parent and/or adult student involvement is valuable and encouraged, the district is not required to include the parent and/or adult student on the team.

When problem solving involves a child 3-5 years of age, the team should seek input from family members, child care programs, private preschools, or Head Start programs, as appropriate. An early childhood problem-solving process needs to consider early childhood environments and the preschool student's need for supported instructional interventions in order for the student to participate in appropriate activities.

2. Referrals to the Problem-Solving Team

Referrals to the problem-solving team may come from a variety of sources including parents, students, other family members, public or private school personnel, agencies, screening programs, or as a result of annual public notice. Referrals may be made for a variety of reasons dealing with academic and behavioral concerns and may involve, but are not limited to, teaching strategies, material accommodations, social skills training, cooperative learning concepts, classroom organization, and scheduling.

3. Interventions

- a. Interventions in general education or an early childhood environment shall be attempted before a student is referred to an evaluation team, unless an evaluation is needed immediately.
- b. Interventions shall be of sufficient scope and duration to determine the effects on the student's educational performance and should be clearly documented.
- c. Documentation of the success or failure of accommodations and interventions shall be reviewed and discussed by the problem-solving team.

4. Problem-Solving Team Decisions Following General Education Intervention

Based on a review of data and information presented by the referring party and others, the team has several decision options. In the case of a preschool student, data and information shall be gathered and reviewed from such settings as child care programs, private preschools, Head Start Programs, or the home.

Following an intervention, the problem-solving team shall review progress monitoring data from the intervention and other relevant information to determine what action is warranted. The team considers a variety of options, including whether to:

- a. continue the general education intervention because the student is making adequate progress but needs more time to reach goals;
- b. continue the intervention in a modified form;
- c. explore services or programs outside of special education (such as Title I of the Elementary and Secondary Education Act, including English language programs; Section 504 accommodations; counseling); or
- d. make a referral to consider a special education evaluation.

Although problem-solving activities are an important part of the system, they cannot be used to delay processing a referral for consideration of a special education evaluation where immediate action is warranted. Either a parent or a public agency may initiate a request for an initial evaluation.

Section 4. Referral to Consider a Special Education Evaluation

A. Evaluation Team

The evaluation team is the group of people established by the IDEA 2004 that has the responsibility for making decisions regarding evaluation, assessments, and eligibility. The composition of the evaluation team will vary depending on the nature of the student's suspected disability and other relevant factors. The evaluation team shall include the same membership (although not necessarily the same individuals) as the IEP team and other professionals as needed to ensure that appropriate, informed decisions are made.

Unlike an IEP team, an evaluation team has the flexibility of conducting business with or without a meeting. The case manager can gather input from evaluation team members in a variety of ways. The parent and/or adult student shall be included in the evaluation team and shall be given the opportunity to indicate whether he or she wishes the team to hold a meeting with all members attending.

B. Referrals to Consider Special Education

The procedure for handling referrals to consider a special education evaluation for students suspected of having a disability includes the following:

1. Unless immediate action is warranted and documented, a referral to consider a special education evaluation is sent to the evaluation team *after* the problem-solving team has determined:

- a. the student's response to research-based interventions in general education (or age-appropriate activities for preschool) has not resulted in adequate progress; and
 - b. language and cultural issues are not the main source of the student's academic or behavioral discrepancy from peers.
2. A *Referral to Consider a Special Education Evaluation/Reevaluation* form shall be completed.
3. Procedural safeguards are activated when a referral is made to consider a special education evaluation. If the referral came from someone other than the parent and/or adult student (see Glossary) the parent and/or adult student shall be notified. In either case, the parent and/or adult student shall be provided with a copy of the *Procedural Safeguards Notice*. At the same time, the parent and/or adult student shall be afforded an opportunity to provide input regarding the need for and scope of the initial evaluation, including the opportunity to hold a meeting if desired.
4. The evaluation team (including the parent and/or adult student) reviews all available records, including family and health history, past school experiences, the results of general education interventions, and previous assessments and evaluations. The evaluation team shall decide what additional assessments, if any, are needed. This review and determination process can take place at a face-to-face meeting of the evaluation team or through an alternate format, unless the parent and/or adult student desires that a meeting be held.
 - a. If the evaluation team determines that an evaluation is warranted, written notice shall be provided to the parent and/or adult student and written consent shall be obtained from the parent and/or adult student.
 - b. If the evaluation team determines that an evaluation is not warranted at this time, the team should seek other avenues for services to meet the student's needs. The person initiating the referral, if other than the parent and/or adult student, may be informed as to why the evaluation is not being conducted. Written notice of the district's refusal to evaluate a student for special education services shall be provided to the parent and/or adult student when he or she makes a referral for a special education evaluation and the district determines that the evaluation is not warranted.

Note: Districts are prohibited from requiring that a student obtain a prescription for a substance covered by the Controlled Substances Act as a condition of attending school, receiving an evaluation, or receiving services under the IDEA 2004.

See Chapter 4 for more information on evaluation and eligibility.

Chapter 4

EVALUATION AND ELIGIBILITY

Chapter 3 discusses child find procedures used to locate and identify students with suspected disabilities. This chapter contains the requirements for the special education evaluation and eligibility process, from referral to consider special education through to the determination of eligibility. The Idaho State Department of Education has provided state eligibility criteria for special education services for eligibility consistent with the Individuals with Disabilities Education Act for districts to use while determining eligibility.

Section 1. Evaluation Team

The evaluation team is a group of people outlined by IDEA 2004 with the responsibility to make decisions regarding evaluation, assessments, and eligibility. This team includes the same membership as the individualized education program (IEP) team (although not necessarily the same individuals) and other qualified professionals as needed to ensure that appropriate and informed decisions are made. The specific composition of the evaluation team reviewing existing data will vary depending upon the nature of the student's suspected disability and other relevant factors. The parent and/or adult student is a member of the evaluation team and shall be provided an opportunity to provide input and participate in making team decisions. The evaluation team may conduct its review without a meeting unless the parent /adult student requests that a meeting be held.

Additional Membership Requirements:

The determination of whether a student suspected of having a *learning disability* shall be made by the student's parents and a team of qualified professionals, which shall include:

- The student's regular teacher; or if the child does not have a regular teacher, a regular classroom teacher qualified to teach a child of his or her age; and
- At least one person qualified to conduct individual diagnostic examinations of children, such as a school psychologist, speech-language pathologist, or remedial reading teacher.

Section 2. Purpose of an Evaluation

The purpose of the evaluation process is to determine the eligibility of a student for special education services. This pertains to both initial determination and three year review of eligibility, or re-evaluation. It is also a process for gathering important information about a student's strengths and needs. An evaluation process should include a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the student, including information provided by the parent.

A. Definitions

Although the terms “evaluation” and “assessment” are often interchanged, there are significant differences between the meaning of the two terms. In an effort to clarify, the terms are defined as follows:

1. **Evaluation** refers to procedures used to determine whether a child has a disability and the nature and extent of the special education and related services that the child needs. The screening of a student by a teacher or specialist to determine appropriate *instructional* strategies for curriculum implementation shall not be considered to be an evaluation for eligibility for special education and related services.
2. **Assessment** is integral to the evaluation process and includes the formal or informal processes of systematically observing, gathering, and recording credible information to help answer evaluation questions and make decisions. A test is one method of obtaining credible information within the assessment process. Tests may be standardized or non-standardized, criterion-referenced (e.g. curriculum-based measures) or norm-referenced, and usually elicit responses from students to situations, questions, or problems to be solved. Assessment data may also include observations, interviews, medical reports, data regarding the effects of general education accommodations and interventions, and other formal or informal data.

B. Evaluation Components

The district shall conduct a full and individual initial evaluation before the provision of special education and related services are provided to a student suspected of having a disability. A parent or a public agency may initiate a request for an initial evaluation to determine eligibility.

This initial evaluation will consist of procedures to determine whether:

1. the student has a disability according to the established Idaho Criteria;
2. the student’s condition adversely affects academic performance; and
3. the student needs special education, that is, specially designed instruction and related services;

In addition, the information from the evaluation can be used to consider the following:

1. the nature and extent of special education and related services needed by the student in order to participate and progress in the general education curriculum or curriculum aligned to the Idaho Content Standards or the Idaho Early Learning Standards; and
2. the least restrictive environment (LRE) for the student.

The above information also pertains to evaluations for determining Part B eligibility for children transitioning from the Infant/Toddler Program.

Section 3. Written Notice and Consent for Assessment

Written notice shall be provided and informed consent shall be obtained before assessments are administered to a student as part of an evaluation.

A. Written Notice Requirements

Written notice shall be provided to the parent and/or adult student within a reasonable time before the district proposes to initiate the evaluation or re-evaluation of a student. Written notice shall be in words understandable to the general public. It shall be provided in the native language or other mode of communication normally used by a parent or adult student unless it is clearly not feasible to do so.

If the native language or other mode of communication is not a written language, the district shall take steps to ensure the following:

1. The notice is translated orally or by other means in the native language or other mode of communication;
2. The parent or adult student understands the content of the notice; and
3. There is written evidence that the above two requirements have been met.

The written notice shall *include* the following:

1. a description of the evaluation or reevaluation proposed or refused by the district;
2. an explanation of why the district proposes to evaluate or reevaluate the student;
3. a description of any other options the district considered and the reasons why those options were rejected;
4. a description of each assessment procedure, test, record, or report that the district used as a basis for the proposed or refused evaluation or reevaluation;
5. a description of any other factors relevant to the evaluation or reevaluation;
6. a statement that the parent or adult student has special education rights and how to obtain a copy of the *Procedural Safeguards Notice*; and

7. sources for parents to contact in obtaining assistance in understanding the *Procedural Safeguards Notice*.

Written notice shall be *provided* to the parent and/or adult student within a reasonable time in the following instances:

1. to conduct any assessments for initial evaluation or reevaluation
2. to explain refusal to initiate assessment
3. when the evaluation team determines that additional assessments are not required

See Chapter 11 for more information on written notice.

B. Consent Requirements

Definition of Consent

Consent means that the parent and/or adult student:

1. has been fully informed in his or her native language or other mode of communication of all information relevant to the assessment for which consent is sought;
2. understands and agrees in writing (as indicated by signature) to the activities described; and
3. understands that granting of consent is voluntary on the part of the parent. A parent or/adult student who has provided consent shall understand that granting consent is voluntary and may be revoked in writing at any time *before* the assessment. However, once the assessment has been completed, revocation of consent cannot be used to have the assessment disregarded.

Consent for initial evaluation

1. Informed written consent shall be obtained from the parent or adult student before the district conducts assessments as a part of an initial evaluation of the student to determine if he/she qualifies as a child with a disability;
2. Parental consent for initial evaluation should not be construed as consent for initial provision of special education and related services;
3. The school district shall make reasonable efforts to obtain the informed consent from the parent for an initial evaluation to determine whether the child has a disability and to identify the educational needs of the child. If a parent refuses consent, the district does not violate its obligation to provide FAPE if it declines to pursue the evaluation.

4. If the child is a ward of the State and is not residing with the child's parent, the district is not required to obtain informed consent from the parent for an initial evaluation to determine eligibility if,
 - a. despite reasonable efforts to do so, the district cannot locate the parent;
 - b. the rights of the parents of the child have been terminated in accordance with Idaho law; or
 - c. the rights of the parent to make educational decisions have been subrogated by a judge in accordance with Idaho law and consent for initial evaluation has been given by an individual appointed by the judge to represent the child
5. If a district is using the Response to Intervention process to determine eligibility the district shall promptly request consent to evaluate the student
 - a. Whenever the parent requests an evaluation during the RTI process.
 - b. At such time that the problem solving team has determined that the student is suspected of having a disability and shall be considered for special education services.

Note: If using an RTI process, there shall be documentation that the parent of the student was notified about the State's policies regarding the amount and nature of student performance data that would be collected and the general education services that would be provided, the strategies for increasing the student's rate of learning, and the parent's right to request an evaluation. This documentation should be a part of the RTI process and may be documented on the intervention plan used by the district.

Consent and/or Written Notice for Reevaluation

1. Written consent shall be sought for reevaluation that requires new assessments. Reevaluation consisting of review of existing data requires written notice.
2. If the parent refuses to consent to the reevaluation, the district is not required to, but may pursue the reevaluation using mediation or a due process hearing. If the district pursues the override provision and that results in consent to assess, or if a hearing officer's decision indicates that assessment is appropriate and there is no appeal, then the student may be assessed. However, the district does not violate its obligations to provide FAPE if it declines to pursue the evaluation.
3. Informed parental consent need not be obtained if the public agency can demonstrate through documentation that it made reasonable efforts to obtain consent and the child's parent has failed to respond.

C. When Consent Is Not Required

Parental consent is *not* required for:

1. the review of existing data as part of an evaluation or reevaluation;
2. the administration of a test or other assessment that is administered to all students, unless consent is required of parents of all students;
3. teacher or related service provider observations, ongoing classroom evaluations, or criterion-referenced tests that are used to determine the student's progress toward achieving goals on the IEP; and
4. screening by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation.

D. Refusing Consent or Failure to Respond to a Request for Consent

1. The parent and/or adult student can refuse consent for general areas of assessment, for specific procedures, or for assessment altogether.
2. For an initial evaluation, if consent is refused or the parent and/or adult student fails to respond, the student cannot be assessed. However, the district may request SDE mediation or a due process hearing. If the mediation results in consent to assess, or if a hearing officer's decision indicates that assessment is appropriate and there is no appeal, then the student may be assessed. However, the district does not violate its obligations to provide FAPE if it declines to pursue the evaluation. *The district shall not initiate initial provision of services without written consent from the parent and shall not pursue due process for initial provision of services.*
3. If a parent of a child who is home schooled or placed in a private school by the parents at their own expense does not provide consent for initial evaluation or reevaluation, or the parent fails to respond to a request to provide consent, the district may not use mediation or due process procedures in order to gain consent and the district is not required to consider the child eligible for services.

Note: A district shall not use a parent's refusal for consent to one service or activity to deny the parent or student any other service, benefit, or activity.

See Chapter 11 for more information on consent and reasonable efforts.

15. The evaluation shall be sufficiently comprehensive to identify all of the child's special education and related service needs, whether or not commonly linked to the disability category.

D. Eligibility Determination

Upon completion of the student's evaluation or reevaluation, the evaluation team will consider the findings and determine whether the student meets or continues to meet eligibility criteria found in Section 7 of this chapter. The evaluation team will draw upon information from a variety of sources, including aptitude and achievement tests, parent and/or adult student input, teacher input, physical condition, social or cultural background, adaptive behavior, and functional assessments to interpret evaluation data and determine eligibility

Special Rule for Eligibility Determination

A student cannot be identified as a student with a disability if the primary reason for such a decision is:

1. lack of appropriate instruction in reading, including the essential components of reading instruction as defined by the Elementary and Secondary Education Act—phonemic awareness, phonics, vocabulary development, reading fluency, including oral reading skills and reading comprehension strategies,
2. lack of appropriate instruction in math, or
3. Limited English Proficiency.

Related Services:

Related services means transportation and such developmental, corrective, and other supportive services as are required to assist a child with a disability to benefit from special education. An IEP team may determine that a student found eligible for special education has a need for a related service. However, if a student with a disability needs only a related service and not special education, then the student is not eligible for the related service, unless it is considered to be special education under state standards, as in the case of speech therapy and language therapy.

E. The Eligibility Report

The evaluation team shall prepare an *Eligibility Report* and provide a copy of the report to the parent and/or adult student.

The *Eligibility Report* shall include:

1. names and positions of all evaluation team members;

2. all data on the student as required in the State Eligibility Criteria for the area of suspected disability.
3. confirmation and supporting data that the disability is not due to lack of appropriate instruction in reading, including the essential components of reading —phonemic awareness, phonics, vocabulary development, reading fluency, including oral reading skills and reading comprehension strategies or math;
4. confirmation and supporting data that the disability is not due to Limited English Proficiency;
5. information about how the student's disability adversely affects his or her educational performance;
6. information regarding the student's need for specially designed instruction (special education and related services);
7. the date of the eligibility determination; and
8. the name and position of all those administering assessments.
9. In the case of Learning Disability eligibility determination, certification in writing that the report reflects each member's conclusions, (agreement) and in the case of disagreement with the conclusions a written statement shall be attached to the eligibility report presenting the dissenting team member's conclusions.

Section 6. Reevaluation and Continuing Eligibility

A. Reevaluation Requirements

The district shall ensure that an individual reevaluation of each student with a disability is conducted in accordance with all the required evaluation procedures outlined in this chapter.

A Reevaluation:

1. shall occur at least once every 3 years unless the parent and/or adult student and the district agree in writing that a 3-year reevaluation is not necessary. However, an updated Eligibility Report, documenting all eligibility criteria, shall be completed by the reevaluation due date to establish and document continuing eligibility;
2. a reevaluation is not required more than once per year unless the parent or/adult student and the district agree otherwise. If the parent makes a request within the year and the district does not agree, the district shall send written notice of refusal.

The district shall ensure a reevaluation is conducted if:

1. it is determined that the education or related service needs, including academic achievement and functional performance, of the student warrants a reevaluation; or
2. if the parent and/or adult student or the student's teacher requests a reevaluation.

B. Reevaluation Prior to Discontinuation

1. The district shall evaluate a student with a disability before determining that the student is no longer eligible for special education.
2. Reevaluation is not required in the following two circumstances:
 - a. before the termination of a child's eligibility due to graduation, if the student meets comparable academic requirements that are equally as rigorous as those required of non-disabled students and receives a regular diploma.
 - b. the student has reached the end of the semester in which he or she turns 21 years of age;

Note: Although a reevaluation is not required in these two cases, the district shall provide the child with a summary of his or her academic achievement and functional performance, including recommendations on how to assist the child in meeting his or her post school goals.

C. Informing the Parent and/or Adult Student

Approximately one month before the reevaluation is due, contact shall be made with the parent and/or adult student informing him or her that:

1. the reevaluation will be scheduled within the month, unless the district and parent and/or adult student agree it is unnecessary;
2. input will be sought from the parent and/or adult student; and
3. the reevaluation process may be accomplished without a meeting, although the parent and/or adult student has the option of requesting a meeting.

D. Nature and Extent of Reevaluation

Before any reassessment of the student, the evaluation team will determine the nature and extent of the student's needs by reviewing existing data. See Section 5 of this chapter for more information regarding the determination of needed data.

1. No Additional Information Needed

- a. If the evaluation team decides that no additional assessments are needed to determine whether the student continues to be a student with a disability, the district shall provide written notice to the parent and/or adult student of his or her right to request further assessment to determine whether the student continues to have a disability for the purpose of services under the IDEA.
- b. If the parent and/or adult student requests an additional assessment to determine whether the student continues to have a disability under the IDEA 2004, then the district shall conduct the assessment.
- c. If the parent and/or adult student requests an additional assessment for reasons other than eligibility, such as admission to college, then the district shall consider the request and provide written notice of its decision.

2. Additional Assessments Needed

Based on recommendations from the evaluation team, the district will seek consent to administer the needed assessments and provide the parent and/or adult student with information regarding proposed assessments. If the parent and/or adult student fails to respond after the district has taken reasonable measures to obtain consent for assessments as part of a reevaluation, the district may proceed with the assessments. See section 3B of this chapter for a definition of reasonable measures.

If the parent and/or adult student denies consent to reassess, the student cannot be assessed. However, the district may request mediation or a due process hearing. If the mediation results in consent to assess, or if a hearing officer's decision indicates the assessment is appropriate and there is no appeal, then the student may be assessed. All reevaluation procedures shall be provided at no cost to the parent and/or adult student.

E. Eligibility Report for Reevaluations

The evaluation team will consider evaluation findings and determine whether the student continues to have a disability.

The evaluation team is required to prepare an *Eligibility Report* detailing how review of existing data demonstrates that the student continues to meet eligibility requirements even if no new assessments were conducted. The report shall address each required eligibility component and include results of previous assessments if they are being used to determine eligibility. Refer to Section 5 of this chapter for *Eligibility Report* requirements.

Section 7. State Eligibility Criteria

The district will use the eligibility criteria and assessment procedures set forth by the SDE for placement in special education. This section contains a definition and the eligibility criteria for each specific disability that shall be used to determine whether an individual qualifies as a student with a disability in need of special education.

All disabilities except Learning Disability (LD) and Developmental Delay (DD) are applicable for students 3 through 21 years of age. For Learning Disability, students must be legal kindergarten age through 21 years. Only students ages 3 through 9 can be identified in the Developmental Delay (DD) category. Use of the DD category is optional for the district. If the district elects to use the DD category, it will use the 3 through 9 age range and the criteria outlined in this chapter.

Three-Prong Test of Eligibility

To demonstrate eligibility for special education services all three of the following criteria shall be met and documented. This is often called the three-prong test for eligibility.

The Eligibility Report shall document each of the following three criteria:

1. the eligibility requirements established by the state for a specific disability are met;
2. the disability must have an adverse impact on the student's education, **and**
3. the student must need special education in order to benefit from his or her education.

Meets State Eligibility Requirements: The state eligibility requirements for specific disabilities are listed in this chapter.

Experiences Adverse Effect on Educational Performance: The term "adverse effect on educational performance" is broad in scope. An adverse effect is a harmful or unfavorable influence. Educational performance includes both academic areas (reading, math, communication, etc.) and nonacademic areas (daily life activities, mobility, pre-vocational and vocational skills, social adaptation, self-help skills, etc.). Consideration of all facets of the student's condition that adversely affect educational performance involves determining

any harmful or unfavorable influences that the disability has on the student's academic or daily life activities.

Needs Special Education: Special education is specially designed instruction, provided at no cost to the parents, to meet the unique needs of the child with a disability. Specially designed instruction means adapted, as appropriate to meet the needs of an eligible student, the content, methodology, or delivery of instruction to address the unique needs of the student that result from the student's disability and to ensure access of the child to the general curriculum so that he or she can meet Idaho Content Standards that apply to all students.

A. Autism

Definition: Autism is a developmental disability, generally evident before age 3, significantly affecting verbal and nonverbal communication and social interaction, and adversely affecting educational performance. A student who manifests the characteristics of autism after age 3 could be diagnosed as having autism. Other characteristics often associated with autism include, but are not limited to, engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines, and unusual responses to sensory experiences. Characteristics vary from mild to severe as well as in the number of symptoms present. Diagnoses may include, but are not limited to, the following autism spectrum disorders: Childhood Disintegrative Disorder, Autistic Disorder, Asperger's Syndrome, or Pervasive Developmental Disorder: Not Otherwise Specified (PDD:NOS).

State Eligibility Criteria for Autism: An evaluation team will determine that a student is eligible for special education services as a student with autism when all of the following criteria are met:

1. An evaluation that meets the procedures outlined in Section 5 of this chapter has been conducted.
2. The student has a developmental disability, generally evident before age 3, that significantly affects verbal and nonverbal communication and social interaction.
3. The student is diagnosed as having a disorder in the autism spectrum by a school psychologist and a speech-language pathologist; or by a psychiatrist, a physician, or a licensed psychologist.
4. The student's condition adversely affects educational performance.
5. The student needs special education.

B. Cognitive Impairment

Definition: Cognitive impairment is defined as significantly sub-average intellectual functioning that exists concurrently with deficits in adaptive behavior. These deficits are manifested during the student's developmental period, and adversely affect the student's educational performance.

State Eligibility Criteria for Cognitive Impairment: An evaluation team will determine that a student is eligible for special education services as a student with a cognitive impairment when all of the following criteria are met:

1. An evaluation that meets the procedures outlined in Section 5 of this chapter has been conducted.
2. The student has a full-scale intelligence standard score (IQ) at or below 70, plus or minus the standard error of measurement (at the 95 percent confidence level) of the test being used. This determination is made by a qualified psychologist using an individually administered intelligence test.
3. The student exhibits concurrent deficits in adaptive functioning expected for his or her age in at least two of the following areas: communication, self-care, home living, social/interpersonal skills, use of community resources, self-direction, functional academic skills, work, leisure, health, or safety.
4. The student's condition adversely affects educational performance.
5. The student needs special education.

Caution is advised when assessing students with cultural and language issues to prevent inappropriate identification of these students as having a cognitive impairment. When determining eligibility, tests measuring intellectual ability shall be used with care; that is, only those tests designed and normed for the population being tested may be used. Tests measuring intellectual ability that are translated into another language by the examiner or an interpreter yield invalid test results and shall not be used. Evaluation teams shall consider using nonverbal tests of intellectual ability when the student is culturally or linguistically diverse.

C. Deaf-Blindness

Definition: A student with deaf-blindness demonstrates both hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational needs that the student cannot be appropriately educated with special education services designed solely for students with deafness or blindness.

State Eligibility Criteria for Deaf-Blindness: An evaluation team will determine that a student is eligible for special education services as a student with deaf-blindness when all of the following criteria are met:

1. An evaluation that meets the procedures outlined in Section 5 of this chapter has been conducted.
2. The student exhibits simultaneous hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational needs that the student cannot be accommodated with special education services designed solely for students with deafness or blindness.
3. The student is diagnosed by an optometrist or ophthalmologist for vision loss and by an otologist, audiologist, or physician for hearing loss to make a final diagnosis as deaf-blindness.
4. The student's condition adversely affects educational performance.
5. The student needs special education.

D. Deafness

Definition: Deafness is a hearing impairment that adversely affects educational performance and is so severe that with or without amplification the student is limited in processing linguistic information through hearing.

State Eligibility Criteria for Deafness: An evaluation team will determine that a student is eligible for special education services as a student who is deaf when all of the following criteria are met:

1. An evaluation that meets the procedures outlined in Section 5 of this chapter has been conducted.
2. The student exhibits a severe hearing impairment that hinders his or her ability to process linguistic information through hearing, with or without amplification.
3. The student has been diagnosed by an otologist, audiologist, or physician as deaf.
4. The student's condition adversely affects educational performance.
5. The student needs special education.

E. Developmental Delay

Definition: The term developmental delay may be used only for students ages 3 through 9 who are experiencing developmental delays as measured by appropriate diagnostic instruments and procedures in one or more of the following areas:

1. cognitive development – includes skills involving perceptual discrimination, memory, reasoning, academic skills, and conceptual development;
2. physical development – includes skills involving coordination of both the large and small muscles of the body (i.e., gross, fine, and perceptual motor skills);
3. communication development – includes skills involving expressive and receptive communication abilities, both verbal and nonverbal;
4. social or emotional development – includes skills involving meaningful social interactions with adults and other children including self-expression and coping skills;
or
5. adaptive development – includes daily living skills (e.g., eating, dressing, and toileting) as well as skills involving attention and personal responsibility.

The category of developmental delay should not be used when the student clearly meets the eligibility criteria for another specific disability category.

A student cannot qualify for special education services under developmental delay beyond his or her 10th birthday unless he or she has been determined to be eligible as having a disability other than developmental delay.

State Eligibility Criteria for Developmental Delay: An evaluation team may determine that a student is eligible for special education services as a student with a developmental delay when all of the following criteria are met:

1. An evaluation that meets the procedures outlined in Section 5 of this chapter has been conducted.
2. The student is at least 3 years of age but less than 10 years of age.
3. The student has developmental and/or learning problems that are not primarily the result of limited English proficiency, cultural difference, environmental disadvantage, or economic disadvantage.
4. The student meets either of the following two criteria, in one or more of the broad developmental areas listed below.

Criteria:

- a. The student functions at least 2.0 standard deviations below the mean in one broad developmental area (30 percent delay in age equivalency, or functions at or below the 3rd percentile)

- b. The student functions at least 1.5 standard deviations below the mean in two or more broad developmental areas (25 percent delay in age equivalency, or functions at or below the 7th percentile)

Broad Developmental Areas:

- a. cognitive skills (e.g., perceptual discrimination, memory, reasoning, pre-academic, and conceptual development);
 - b. physical skills (i.e., fine, gross, and perceptual motor skills);
 - c. communication skills (i.e., including verbal and nonverbal, and receptive and expressive);
 - d. social or emotional skills; or
 - e. adaptive skills, including self-help skills.
5. The student's condition adversely affects educational performance.
 6. The student needs special education.

F. Emotional Disturbance

Definition: A student with emotional disturbance has a condition exhibiting one or more of the following characteristics over a long period of time, and to a marked degree, that adversely affects his or her educational performance:

1. an inability to learn that cannot be explained by intellectual, sensory, or health factors;
2. an inability to build or maintain satisfactory interpersonal relationships with peers and teachers;
3. inappropriate types of behavior or feelings under normal circumstances;
4. a general pervasive mood of unhappiness or depression; or
5. a tendency to develop physical symptoms or fears associated with personal or school problems.

The term *does not* include students who are socially maladjusted unless it is determined they have an emotional disturbance. The term emotional disturbance *does* include students who are diagnosed with schizophrenia.

State Eligibility Criteria for Emotional Disturbance: An evaluation team will determine that a student is eligible for special education services as a student with emotional disturbance when all of the following criteria are met:

1. An evaluation that meets the procedures outlined in Section 5 of this chapter has been conducted.
2. The student has been documented as having an emotional condition consistent with the criteria in this chapter by one or more of the following: school psychologist, licensed psychologist, psychiatrist, physician, or certified social worker.
3. The student has been observed exhibiting one or more of the five behavioral or emotional characteristics listed in the definition of emotional disturbance.
4. The characteristic(s) has been observed:
 - a. for a long period of time (at least 6 months); and
 - b. by more than one knowledgeable observer; and
 - c. in more than one setting; and
 - d. at a level of frequency, duration, and/or intensity that is significantly different from other students' behavior in the same or similar circumstances.
5. The student's condition adversely affects educational performance in the area of academics, peer and teacher interaction, participation in class activities, and/or classroom conduct.
6. The student needs special education.

See Appendix 4A for additional information on determining eligibility for Emotional Disturbance.

G. Health Impairment

Definition: A student classified as having a health impairment exhibits limited strength, vitality, or alertness, including heightened alertness to environmental stimuli that results in limited alertness with respect to the educational environment that is due to chronic or acute health problems. These health problems may include, but are not limited to, asthma, attention deficit disorder (ADD), attention deficit hyperactivity disorder (ADHD), cancer, diabetes, epilepsy, Fetal Alcohol Syndrome, a heart condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, sickle cell anemia, Tourette syndrome, and stroke to such a degree that it adversely affects the student's educational performance.

A student with ADD/ADHD may also be eligible under another category (generally learning disability or emotional disturbance) if he or she meets the criteria for that other category and needs special education and related services. All students with a diagnosis of ADD/ADHD are not necessarily eligible to receive special education under the IDEA 2004, just as all students who have one of the other conditions listed under health impairment are not necessarily eligible, unless it is determined to adversely affect educational performance and require special education.

State Eligibility Criteria for Health Impairment: An evaluation team will determine that a student is eligible for special education services as a student with a health impairment when all of the following criteria are met:

1. An evaluation that meets the procedures outlined in Section 5 of this chapter has been conducted.
2. The student exhibits limited strength, vitality, or alertness, including heightened alertness to environmental stimuli that results in limited alertness with respect to the educational environment that is due to chronic or acute health problems.
3. The student has been diagnosed by a physician as having a health impairment. In the case of ADD/ADHD, an educational determination may be provided by a school psychologist or a licensed psychologist.
4. The student's condition adversely affects educational performance.
5. The student needs special education.

H. Hearing Impairment

Definition: A hearing impairment is a permanent or fluctuating hearing loss that adversely affects a student's educational performance but is not included under the category of deafness.

State Eligibility Criteria for Hearing Impairment: An evaluation team will determine that a student is eligible for special education services as a student with a hearing impairment when all of the following criteria are met:

1. An evaluation that meets the procedures outlined in Section 5 of this chapter has been conducted.
2. The student does not qualify as deaf.
3. The student is diagnosed by an otologist, audiologist or physician as having a hearing impairment.
4. The student's condition adversely affects educational performance.

5. The student needs special education.

I. Learning Disability

Definition: A learning disability means a specific disorder of one or more of the basic psychological processes involved in understanding, or in using spoken or written language, that may manifest itself in an impaired ability to listen, think, speak, read, write, spell, or do mathematical calculations, which adversely affects the student's educational performance. It is not necessary to identify the specific psychological processes that a student has, as long as the student meets the State Eligibility Criteria.

The term includes such conditions as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. The term does not include a student who has needs that are primarily the result of visual, hearing, or motor disabilities; cognitive impairment; emotional disturbance; or environmental, cultural, or economic disadvantage.

For learning disability, students must be within the range of legal kindergarten age through the semester that they turn 21.

State Eligibility Criteria for Learning Disability: An evaluation team will determine that a student is eligible for special education services as a student with a learning disability when all of the following criteria are met and documented on the eligibility report. The documentation of Learning Disability requires an additional form (400a & 400b) used to address the additional requirements.

1. Requirements for Learning Disability

There are two ways to determine eligibility for students with a Learning Disability: *either* Response to Intervention (RTI) or the traditional discrepancy model. Regardless of the process used for identification the following criteria shall be met and documented:

- a. An evaluation that meets the procedures outlined in Section 5 of this chapter has been conducted.
- b. The child has not achieved adequately for the child's age or has failed to meet Idaho Content Standards in one or more of the following areas, when provided with learning experiences and instruction appropriate for the child's age or Idaho Content grade-level Standards.
 - (1) Oral expression
 - (2) Listening comprehension
 - (3) Written expression
 - (4) Basic reading skills

- (5) Reading fluency skills
 - (6) Reading comprehension
 - (7) Mathematics calculation
 - (8) Mathematics problem solving
- c. To ensure that underachievement is not due to a lack of appropriate instruction in reading or math, the team shall consider:
- (1) data that demonstrate that prior to, or as part of, the referral process, the child was provided appropriate instruction in regular education settings, delivered by qualified personnel; and
 - (2) data-based documentation of repeated assessments of achievement at reasonable intervals, that reflect student progress during instruction, have been provided to the parent. In Idaho, this refers specifically to the use of local or national progress monitoring systems (e.g. district CBMs, AimsWEB, DIBELS).
- d. An observation of the student's academic performance and behavior in the child's learning environment, (including the regular classroom setting), has been conducted by an evaluation team member other than the student's general education classroom teacher. The purpose of the observation is to document how the areas of concern impact the student's performance in the classroom. The observation should also document the name and title of the observer and the site, date, and duration of the observation. The team shall decide to:
- (1) use information from an observation in routine classroom instruction and monitoring of the child's performance that was conducted before the child was referred for an evaluation or;
 - (2) have at least one member of the team conduct an observation of the child's academic performance in the regular classroom after the child has been referred for an evaluation, and parental consent has been obtained.
 - (3) In the case of a student who is out of school, a team member shall observe the student in an environment appropriate for a student of that age.
- e. The team shall determine the student's difficulty is not primarily the result of any of the following factors:
- (1) visual, hearing, or motor disability
 - (2) cognitive impairment
 - (3) emotional disturbance
 - (4) cultural factors
 - (5) environmental or economic disadvantage

(6) Limited English Proficiency

- f. The student's disability adversely affects his or her educational performance.
- g. The student needs special education.

2. Additional Requirements Specific to Response to Intervention

Eligibility for special education through the RTI process is substantiated by the convergence of data from the general education interventions *and* other sources, which may include record reviews, interviews, observations, and tests (formal and informal).

In addition to the required learning disability eligibility criteria listed above in Section A, the evaluation team shall make a determination using a convergence of multiple sources of data that demonstrate the following:

- a. Resistance to General Education Intervention: The student has demonstrated significant resistance to general education interventions.
- b. Discrepancy: The student has a discrepancy from peers' performance in the area of concern as evidenced by two or more measures

Resistance to General Education Intervention

The student has demonstrated significant resistance to general education interventions. The student's actual rate of learning is lower than reasonably expected rate of learning, despite scientific, research-based interventions that have been attempted for an adequate period (generally deemed 8-12 weeks).

Significant resistance means that there must be evidence that the problem is

- a. ongoing and severe; and
- b. the student requires resources beyond those available in general education alone to adequately benefit from instruction.

The significant resistance to general education interventions shall be documented in an intervention plan and on a progress monitoring graph, indicating aimline, trendline, phaseline, and decision rules.

See Appendix 4D for additional information on RTI Components.

Discrepancy:

The student has a discrepancy from peers' performance in the area of concern as evidenced by two or more measures, with at least one measure being curriculum based measurements, (CBM) or national progress monitoring systems with cut scores (i.e. DIBELS, Aimsweb).

1. Curriculum Based Measurement: The evaluation team shall identify the type of norm being applied, i.e., school, district, regional, or national norm. The student's median score on a curriculum based measurement shall be one of the following:
 - a. At or below the 16th percentile (1.0 SD below) on material one grade level below the student's current grade placement, e.g., comparing a fourth-grade student to third-grade norms; or
 - b. At or below the 7th percentile (1.5 SD below) on material at the student's grade placement, e.g., comparing a fourth-grade student to fourth grade norms.
2. Other Measures:
 - a. The student's score on a nationally normed, standardized test is at least 1.75 standard deviations below the mean (a standard score of 74 or lower).
 - b. The student's median performance is below the median performance of his or her grade-placement peers by a discrepancy ratio of at least 2.0.
 - c. The student's instructional performance is at least two grade-levels below his or her current grade placement.

Documentation of RTI process shall be done through an intervention plan and graphs.

The components that shall be represented on the intervention plan are as follows:

- a. the targeted skill, including the present level of performance and a measurable goal
- b. the scientific, research based intervention used, including intensity, frequency, and duration
- c. evidence that the student does not achieve adequately for his or her age or to meet Idaho grade level Content Standards given interventions typical in general education and a summary of significant resistance to those general education interventions, including that the resistance is on- going and severe and the student requires resources beyond general education alone to benefit from instruction
- d. documentation from two or more measures, one of which is a curriculum based measure, indicating the discrepancy from peers' performance on skills

- e. An observation documenting the student's academic performance and behavior in the areas of concern

The graph shall include, among other relevant components, an aimline, trendline, phaselines, and decision rules.

3. Additional Requirements Specific to Traditional Discrepancy Model:

In addition to the required learning disability eligibility criteria listed above in Section A, the evaluation team shall make a determination using assessments and procedures that demonstrate the following:

- a. A Pattern Indicative of a Learning Disability

The child exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, Idaho Content Standards for the child's age, or intellectual development that is determined by the team, using appropriate assessments, to be indicative of a learning disability; **and**

- b. A Severe Discrepancy between Ability and Achievement

A severe discrepancy exists between intellectual ability and academic achievement when the broad area standard score is equal to or greater than 15 points below a regressed full-scale intellectual ability score. The severe discrepancy must not be due to the effects of any of the exclusionary factors listed in Section 5 of this chapter.

The district shall use the Regressed Intelligence Quotient Scores table, found in the document section of this chapter, or another appropriate regression table or procedure. This conversion chart can be used in determining the regressed intelligence score from which the achievement score is subtracted in arriving at a discrepancy.

J. Multiple Disabilities

Definition: Multiple disabilities are two or more co-existing severe impairments, one of which usually includes a cognitive impairment, such as cognitive impairment/blindness, cognitive impairment/orthopedic, etc. Students with multiple disabilities exhibit impairments that are likely to be life long, significantly interfere with independent functioning, and may necessitate environmental modifications to enable the student to participate in school and society. The term does not include deaf-blindness.

State Eligibility Criteria for Multiple Disabilities: An evaluation team will determine that a student is eligible for special education services as a student with multiple disabilities when all of the following criteria are met:

1. An evaluation that meets the procedures outlined in Section 5 of this chapter has been conducted.
2. The student meets eligibility criteria for severe concomitant impairments, the combination of which causes such significant educational problems that the student cannot be accommodated by special education services designed solely for one of the disabilities.
3. The student meets State Eligibility Criteria as outlined for each disability category.
4. The student's condition adversely affects educational performance.
5. The student needs special education.

K. Orthopedic Impairment

Definition: Orthopedic impairment means a severe physical limitation that adversely affects a student's educational performance. The term includes impairments caused by congenital anomaly (clubfoot, or absence of an appendage), an impairment caused by disease (poliomyelitis, bone tuberculosis, etc.), or an impairment from other causes (cerebral palsy, amputations, and fractures or burns that cause contracture).

State Eligibility Criteria for Orthopedic Impairment: An evaluation team will determine that a student is eligible for special education services as a student with an orthopedic impairment when all of the following criteria are met:

1. An evaluation that meets the procedures outlined in Section 5 of this chapter has been conducted.
2. The student exhibits a severe orthopedic impairment. The term includes congenital anomalies, impairments caused by disease, and impairments from other causes that are so severe as to require special education services.
3. The student has documentation of the condition by a physician or other qualified professional.
4. The student's condition adversely affects educational performance.
5. The student needs special education.

L. Speech or Language Impairment: Language

Definition: A language impairment exists when there is a disorder or delay in the development of comprehension and/or the uses of spoken or written language and/or other symbol systems. The impairment may involve any one or a combination of the following:

1. the form of language (morphological and syntactic systems);
2. the content of language (semantic systems); and/or
3. the function of language in communication (pragmatic systems).

A language disorder does not exist when language differences are due to non-standard English or regional dialect or when the evaluator cannot rule out environmental, cultural, or economic disadvantage as primary factors causing the impairment.

State Eligibility Criteria for Language Impairment: An evaluation team will determine that a student is eligible for special education and related services as a student who has a language impairment when all of the following criteria are met:

1. An evaluation that meets the procedures outlined in Section 5 of this chapter has been conducted.
2. At least two procedures, at least one of which yields a standard score, are used to assess receptive language and/or expressive language.
3. The student has attained scores on a standardized measure that are 1.5 standard deviations or more below the mean, or at or below the 7th percentile, in either receptive or expressive language.
4. The student's disability adversely affects educational performance.
5. The student needs special education. (Speech/language therapy can be special education or a related service.)

Caution is advised when evaluating a student whose native language is other than English. The acquisition of the English language is not to be mistaken as a language impairment.

M. Speech or Language Impairment: Speech

The term speech impairment includes articulation/phonology disorders, voice disorders, or fluency disorders that adversely impact a child's educational performance. The following eligibility criteria and minimum assessment procedures have been established for all three types of speech impairments.

1. Articulation/Phonology Disorder

Definition: Articulation is the ability to speak distinctly and connectedly. Articulation disorders are incorrect productions of speech sounds including omissions, distortions, substitutions, and/or additions that may interfere with intelligibility. Phonology is the process used in our language that has common elements (sound patterns) that affect different sounds. Phonology disorders are errors involving phonemes, sound patterns, and the rules governing their combinations.

- a. An articulation/phonology disorder exists when:
 - (1) the disorder is exhibited by omissions, distortions, substitutions, or additions;
 - (2) the articulation interferes with communication and calls attention to itself; and
 - (3) the disorder adversely affects educational or developmental performance.
- b. An articulation/phonology disorder does not exist when:
 - (1) errors are temporary in nature or are due to temporary conditions such as dental changes;
 - (2) differences are due to culture, bilingualism or dialect, or from being non-English speaking; or
 - (3) there are delays in developing the ability to articulate only the most difficult blends of sound or consonants within the broad range for the student's age.

State Eligibility Criteria for Articulation/Phonology Disorder: An evaluation team will determine that a student is eligible for special education and related services as a student who has an articulation/phonology disorder (speech impairment) when all of the following criteria are met:

- a. An evaluation that meets the procedures outlined in Section 5 of this chapter has been conducted.
- b. At least two procedures are used to assess the student, one of which yields a standard score.
- c. The student must have a score that is at least 1.5 standard deviations below the mean, at or below the 7th percentile, on a standardized articulation/phonological assessment, or the speech impairment is judged as moderate on the standardized measure for students ages 3 through 21 years.
- d. The student's disability adversely affects educational performance.

- e. The student needs special education. (Speech/language therapy can be special education or a related service.)

2. Fluency Disorder

Definition: A fluency disorder consists of stoppages in the flow of speech that is abnormally frequent and/or abnormally long. The stoppages usually take the form of repetitions of sounds, syllables, or single syllable words; prolongations of sounds; or blockages of airflow and/or voicing in speech.

- a. A fluency disorder exists when an abnormal rate of speaking, speech, interruptions, repetitions, prolongations, blockages of airflow and/or voicing interferes with effective communication.
- b. A fluency disorder does not exist when developmental dysfluencies are part of normal speech development and do not interfere with educational or developmental performance.

State Eligibility Criteria for Fluency Disorder: An evaluation team will determine that an individual is eligible for special education and related services as a student who has a fluency disorder (speech impairment) when all of the following criteria are met:

- a. An evaluation that meets the procedures outlined in Section 5 of this chapter has been conducted.
- b. The student has a fluency rating of moderate or severe on the Fluency Communication Rating Scale for student's age 3 through 21 years. See the documents section of this chapter for the Fluency Communication Rating Scale.
- c. The student's disability adversely affects educational performance.
- d. The student needs special education. (Speech/language therapy can be special education or a related service.)

3. Voice Disorder

Definition: Voice disorders are the absence or abnormal production of voice quality, pitch, intensity, or resonance. Voice disorders may be the result of a functional or an organic condition.

A student who has a suspected laryngeal-based voice disorder and has not been evaluated by an ear, nose, and throat physician (ENT) (otorhinolaryngologist) may not receive voice therapy services from a speech-language pathologist.

- a. A voice disorder exists when the vocal characteristics of quality, pitch, intensity, or resonance:
 - (1) interfere with communication;
 - (2) draw unfavorable attention to the speaker;
 - (3) adversely affect the speaker or listener; or
 - (4) are inappropriate to the age and gender of the speaker.
- b. A voice disorder does not exist when the vocal characteristics of quality, pitch, intensity, or resonance:
 - (1) are the result of temporary physical factors such as allergies, colds, or abnormal tonsils or adenoids;
 - (2) are the result of regional dialectic or cultural differences or economic disadvantage; or
 - (3) do not interfere with educational or developmental performance.

State Eligibility Criteria for Voice Disorder: An evaluation team will determine that a student is eligible for special education and related services as a student who has a voice disorder (speech impairment) when all of the following criteria are met:

- a. An evaluation that meets the procedures outlined in Section 5 of this chapter has been conducted.
- b. The student has a voice production rating of moderate or severe on the Voice Rating Scale for students aged 3 through 21 years. See the document section of this chapter for the Voice Rating Scale.
- c. A physician's statement documents that voice therapy is not contraindicated.
- d. The student's disability adversely affects educational performance.
- e. The student needs special education. (Speech/language therapy can be special education or a related service.)

See the documents section of this chapter for information on documenting adverse effects on educational performance for students with speech/language disorders.

NOTE: A student may receive speech or language services if he or she under is eligible for special education and needs speech or language services as a related service in order to benefit

from special education without meeting the eligibility criteria for speech and language impairment.

N. Traumatic Brain Injury

Definition: Traumatic brain injury refers to an acquired injury to the brain caused by an external physical force resulting in a total or partial functional disability or psychosocial impairment, or both, that adversely affects educational performance. The term applies to open or closed head injuries resulting in impairments in one or more areas such as cognition, language, memory, attention, reasoning, abstract thinking, judgment, problem solving, sensory, perceptual and motor abilities, psychosocial behavior, physical functions, information processing, and speech. The term does not apply to congenital or degenerative brain injuries or to brain injuries induced by birth trauma.

State Eligibility Criteria for Traumatic Brain Injury: An evaluation team will determine that a student is eligible for special education services as a student who has a traumatic brain injury when all of the following criteria are met:

1. An evaluation that meets the procedures outlined in Section 5 of this chapter has been conducted.
2. The student has an acquired injury to the brain caused by an external physical force resulting in a total or partial functional disability or psychosocial impairment, or both.
3. The student has documentation of diagnosis by a licensed physician as having a traumatic brain injury.
4. The student's condition adversely affects educational performance.
5. The student needs special education.

O. Visual Impairment Including Blindness

Definition: Visual impairment refers to an impairment in vision that, even with correction, adversely affects a student's educational performance. The term includes both partial sight and blindness. Partial sight refers to the ability to use vision as one channel of learning if educational materials are adapted. Blindness refers to the prohibition of vision as a channel of learning, regardless of the adaptation of materials.

State Eligibility Criteria for Visual Impairment: An evaluation team will determine that a student is eligible for special education services as a student with a visual impairment when all of the following criteria are met:

1. An evaluation that meets the procedures outlined in Section 5 of this chapter has been conducted.

2. The student has documentation of a visual impairment, not primarily perceptual in nature, resulting in measured acuity of 20/70 or poorer in the better eye with correction, or a visual field restriction of 20 degrees as determined by an optometrist or ophthalmologist.
3. The student's physical eye condition, even with correction, adversely affects educational performance.
4. The student needs special education.

Chapter 5

INDIVIDUALIZED EDUCATION PROGRAMS

If a student is eligible for special education services, they have met the requirements of eligibility under IDEA 2004, including a disability that meets the criteria, adversely affects the student's educational performance, and requires specially designed instruction.

Special education means specially designed instruction, at no cost to the parents, to meet the unique needs of a student with a disability including instruction in the classroom, the home, hospitals, institutions, and other settings. The definition of special education also includes instruction in physical education, speech/language pathology, travel training, and vocational education.

Specially designed instruction means adapting, as appropriate to the needs of an eligible student, the content, methodology, or delivery of instruction to (1) address the unique needs of the student that result from his or her disability and (2) to ensure access to the general curriculum so that the student can meet the Idaho Content Standards that apply to all students.

The Individualized Education Program (IEP) is a written document that is developed for each eligible student with a disability and documents the specially designed instruction and related services. The IEP is the product of collaboration among a parent and/or adult student, district personnel, and other IEP team members who, through full and equal participation, identify the unique needs of a student with a disability and plan the special education services to meet those needs.

In developing each student's IEP, the IEP team shall consider:

- ▶ The strengths of the student;
- ▶ The concerns of the parents for enhancing the education of their child;
- ▶ The results of the initial or most recent evaluation of the student; and
- ▶ The academic achievement, developmental, and functional needs of the student.

Section 1. IEP Initiation

A. Purpose of Meeting

The primary purpose of an IEP team meeting is to design an IEP that shall meet the unique needs of a student with a disability. The IEP team plans the special education and related services calculated to enable the student to receive educational benefits in the least restrictive environment. The parent and/or adult student shall be invited to the meeting and in order to participate meaningfully, the parent and/or adult student should be informed of his or her role as

a team member. The parent and/or adult student, district personnel, and other IEP team members should come prepared to discuss specific information about the student's individual needs and the type of services to be provided to address those needs.

The meeting format should invite open discussion that allows participants to identify and consider all the relevant needs of the student related to their disability. Placement decisions shall be considered *after* the special education services are determined. Placement is based on the IEP services and accommodations and shall not be the determining factor in developing the IEP content.

Informal or unscheduled conversations involving district personnel on various issues (e.g., teaching methodology, lesson plans, or coordination of service provisions) are not considered a meeting as long as no decisions are made regarding issues addressed on the student's IEP. A meeting does not include preparatory activities in which district personnel engage to develop a proposal or a response to a parent and/or adult student proposal that will be discussed at a later meeting.

B. Team Decision Making

The IEP meeting serves as a communication vehicle between the parent and/or adult student, district personnel, and other IEP team members that enables them, as equal participants, to make joint, informed decisions regarding the student's special education services. All members of the IEP team are expected to work toward consensus regarding the services that will be included in the student's IEP to ensure that he or she receives a free appropriate public education (FAPE). Consensus means that all members are in general agreement regarding what is written.

If there is a lack of consensus between the parent and/or adult student, district personnel, and other IEP team members regarding an IEP decision, then school personnel on the IEP team should seek consensus and make the decision subject to the due process rights of the parent and/or adult student. If there is a lack of consensus among school personnel, then the district representative on the IEP team shall make the decision.

The district shall follow the procedures in Section 1, "Parent and/or Adult Student Objection to the IEP," if necessary.

C. When IEP Meetings Are Held

An IEP meeting shall be held for one or more of the following reasons:

1. To develop and implement an IEP within 60 calendar days of receiving parent and/or adult student consent for initial evaluation, excluding periods when regular school is not in session for 5 or more consecutive days. With the exception that the meeting to develop the IEP shall be held within 30 days of a determination that the student needs special education and related services. Refer to Chapter 4, Section 3.E regarding

additional timeline exceptions. The IEP shall be implemented as soon as possible following the meeting during which the IEP was developed.

2. To review the IEP periodically, but no longer than 365 days from the date of development of the current IEP. An IEP shall be in effect at the beginning of each school year;
3. When another agency fails to deliver transition or other services outlined in the IEP;
4. To consider revisions to the IEP if there is any lack of expected progress toward annual goals and in the general education curriculum, where appropriate;
5. At the reasonable request of any member of the IEP team;
6. To review behavioral intervention strategies and/or develop a behavioral plan as part of the IEP; or
7. To address the IDEA 2004 discipline requirements (see Chapter 13).

NOTE: Under the IDEA 2004, an IEP team meeting may not be required to amend the IEP (see IEP Amendments).

D. IEP Team Members and Roles

The IEP Team means a group of individuals who are responsible for developing, reviewing, or revising an IEP for a child with a disability.

NOTE: The general education teacher, special education teacher, district representative, or individual who can interpret implications of evaluation results may be excused from an IEP meeting, in whole or in part, if the parent and/or adult student and district agree to this in writing. If the meeting deals with the excused member's areas, he or she shall provide written input to the IEP team prior to the meeting. Written input shall include substantive data (e.g., based on assessment, providing meaningful guidance to the team, regarding the purpose of the meeting, reflecting on general education curriculum). If the district representative is excused, a staff member in attendance shall have the authority to bind the district to the decisions of the team.

Role	Description
<p>Parent of the student <i>or</i> Adult Student if rights have transferred</p>	<p>The term “parent” refers to a biological or adoptive parent, foster parent, a judicially decreed guardian (does not include state agency personnel if the student is a ward of the state), a person acting in place of a parent, or a surrogate parent who has been appointed by the district. The term “acting in place of a biological or adoptive parent” includes persons such as a grandparent, stepparent, or other relative with whom the student lives as well as persons who are legally responsible for a student’s welfare. A foster parent may act as a parent if the natural parent’s authority to make educational decisions on behalf of his or her child has been terminated by law. A foster parent shall be an individual who is willing to make educational decisions required of a parent, and has no interest that would conflict with the interests of the student.</p> <p>If more than the biological or adoptive parents meet the definition of parent, the biological or adoptive parents serve as the parents in the IEP process, unless a judicial decree or order identifies a specific person or persons to make educational decisions for the student.</p> <p>An “adult student” is a student with a disability who is 18 years of age or older to whom special education rights have transferred under the IDEA 2004 and Idaho Code. (See Chapter 11, Section 2C, for more information.) In this case, the parent may attend the IEP meeting as an individual who has knowledge or special expertise regarding the student at the invitation of the adult student or the district.</p>
<p>District Representative</p>	<p>The district representative or designee shall be qualified to provide or supervise the provision of special education to meet the unique needs of students with disabilities. The representative shall be knowledgeable about the general education curriculum and about the availability of resources in the district. They should have the authority to allocate resources and to ensure that whatever services are outlined in the IEP shall be provided. Examples of the district representative include the building principal, the special education director, the district superintendent and others who meet the criteria described above. The district representative may be another member of the IEP team if all the criteria above are met.</p>

The attendance list is not a reflection of agreement or disagreement with the IEP; it is only an indication of attendance. As with any team member, the parent's/adult student's name on the list does not indicate agreement or disagreement with the IEP contents. If the parent and/or adult student disagrees with all or part of the IEP, the district should remind the parent and/or adult student that he or she may file a written objection.

NOTE: See Section 1J for additional information on parent and/or adult student objections.

C. Present Levels of Performance, Goals, and Benchmarks/Objectives

The IEP identifies present levels of academic achievement and functional performance and measurable goals that enable the IEP team to track the effectiveness of services and to easily report progress toward goals.

1. Statements of present levels of academic achievement, and functional performance in an area of need include:
 - a. How a school-age student's disability affects his or her involvement and progress in the general education curriculum (i.e., the same curriculum used by students without disabilities).
 - b. For preschool students, present levels of performance should reference the Idaho Early Learning Standards and describe how the disability affects the student's participation in appropriate activities.
2. Although the content of present levels of performance statements are different for each student, each statement shall:
 - a. be written in objective, measurable terms and easy-to-understand non-technical language;
 - b. show a direct relationship with the other components of the IEP, including special education services, annual goals, and, if applicable, benchmarks/objectives for students who participate in an Idaho Alternate Assessment;
 - c. provide a starting point for goal development; and
 - d. reference general education Idaho Content Standards.
3. Annual goals shall be related to the needs described in the present levels of performance statements. Measurable academic achievement, developmental, and functional annual goals are designed to meet the student's needs that result from the student's disability, to enable the student to be involved in and make progress in the general education curriculum, and to meet each of the student's other educational needs that result from the student's disability.

- a. A goal is a written, measurable statement that describes what a student is reasonably expected to accomplish within the time period covered by the IEP, generally one year.
 - b. Goals are written to enable the student to be involved in and make progress in the general education curriculum and to meet other educational needs that result from the disability.
 - c. A goal shall include the behavior, the performance criteria, and the evaluation procedure.
4. For students taking an Idaho Alternate Assessment aligned to the alternate standards, each goal shall have at least two benchmarks/objectives. Benchmarks/objectives shall include a statement of how far the student is expected to progress toward the annual goal and by what date. The district has the discretion to use benchmarks/objectives as described in this paragraph for all students eligible for IEP services.

D. Progress Toward Goals

The IEP shall include a statement describing:

1. How the student's progress toward IEP goals will be measured;
2. How the parent and/or adult student will be informed of the student's progress toward the annual goals, including the extent to which progress is sufficient to enable the student to achieve the goals by the end of the IEP time period.

Periodic progress reports, concurrent with the issuance of report cards shall be provided.

E. Statements of Special Education and Related Services

Each student's IEP shall describe the special education and related services, based on peer-reviewed research to the extent practicable, which will be provided to or on behalf of the student. Special education includes specially designed instruction to meet the unique needs of the student.

The term "related services" refers to transportation and such developmental, corrective, and other supportive services required to assist a student with a disability to benefit from special education as described in the IEP. These services include, but are not limited to:

6. to monitor the continuing eligibility of the student based on an evaluation or review of a variety of data, which may include formal or informal assessment, progress toward IEP goals and when applicable benchmarks/objectives;
7. to write a new IEP; and
8. to consider a reevaluation to determine if a student is no longer eligible and special education services should be discontinued.

B. IEP Amendments

In making changes to a student's IEP after the annual IEP meeting for a school year, the parent and/or adult student and the district may agree in writing not to convene an IEP meeting for the purposes of making such changes, and instead may develop a written document to amend the student's current IEP. The parent and/or adult student will be provided with a revised copy of the IEP with the amendments incorporated. The annual review date remains the date of the original IEP.

If the parent and/or adult student believes that the student is not progressing satisfactorily or that there is a problem with the current IEP, he or she may request an IEP team meeting. The district shall grant any reasonable request for such a meeting. If the district refuses to convene an IEP meeting requested by the parent and/or adult student, the district shall provide written notice to the parent and/or adult student, including an explanation of why the district has determined the meeting is unnecessary.

If any other member of the IEP team feels that the student's placement or IEP services are not appropriate, that team member may request an IEP team meeting.

Each general education teacher, special education teacher, related service provider, and any other service provider who is responsible for implementing any portion of the amended IEP shall have access to the amendment and be informed of his or her specific responsibilities.

Section 4. IEPs for Transfer Students

A. Transfer from an Idaho School District

When a student with a disability transfers school districts with a current IEP in Idaho, the district shall provide the student with FAPE. This includes services comparable to those described in the previously held IEP, in consultation with the parent and/or adult student, until such time as the district adopts the previously held IEP or develops, adopts, and implements a new IEP. The receiving district shall promptly request records from the sending district and once the district has formally received a request for a student's record from another Idaho district, the district shall forward copies or the original documents within 10 days of the request. If originals are sent, the sending district shall maintain a copy for audit purposes.

B. Transfer from an Out-of-State District

When a student with a disability transfers from out of state to an Idaho school district with a current IEP in that other state, the district shall provide the student with FAPE. This includes services comparable to those described in the previously held IEP, in consultation with the parent and/or adult student, until such time as the district conducts an evaluation, if determined necessary, and develops, adopts, and implements a new IEP.

If the district has formally received a request from an out-of-state school, the district shall forward copies or the original documents within 10 days of the request. If originals are sent, the district shall maintain a copy for audit purposes.

Section 5. IEPs for Children from the Infant Toddler Program**A. Interagency Agreement and Protocols**

The school district, as the local lead agency for Part B, shall initiate the development of a signed interagency protocol with the regional Infant Toddler Program (ITP) of the Department of Health and Welfare (DHW), the lead agency under Part C of the IDEA 2004. The protocol shall be in accordance with the current state Interagency Agreement for Early Childhood Special Education Services and Early Intervention for Children Ages Two through Five. See Appendix 5C.

The protocol will outline the obligations of each agency to ensure:

1. a smooth and effective transition of children served under Part C to early childhood special education services (ECSE) under Part B,
2. by the child's third birthday, eligibility for Part B services has been determined and an IEP or Individual Family Service Plan (IFSP) has been developed and implemented, and
3. each district and agency shall participate in transition planning conferences.

NOTE: A child, who turns three after May 1, has been determined eligible for Part B services, and parental consent has been obtained for initial placement for Part B services, can be served as outlined in the IFSP by the ITP until school starts in the fall. This is the case unless specified differently in the local interagency protocol.

Chapter 7

DISCONTINUATION OF SERVICES, GRADUATION, AND GRADING

Section 1. Discontinuation of Services

A. Students Who Are No Longer Entitled to Services

The district will follow appropriate procedures to discontinue special education services to students who are no longer entitled to those services.

1. Student No Longer Meets Eligibility Criteria

If it is suspected that a student no longer meets the eligibility criteria for the Individuals with Disabilities Education Improvement Act of 2004 (IDEA 2004), the evaluation team will conduct a reevaluation and arrange to have additional assessments conducted if necessary. If the student is no longer eligible, the district will provide the parent and adult student with written notice of this decision prior to discontinuing special education services.

2. Student Completes Requirements for a High School Diploma

The district's obligation to provide special education services ends when the student meets the district and state requirements that apply to all students for receipt of a high school diploma without adaptations. Although this is considered a change of placement, a reevaluation is not required. Prior to graduation and the discontinuation of special education services the district shall:

- a. provide the parent and/or adult student with written notice the district's obligation to provide special education services ends when the student obtains a regular high school diploma; and
- b. provide the parent and/or adult student with a written summary of academic achievement and functional performance which shall include recommendations to assist the student in meeting his or her postsecondary goals. This summary is known as the Summary of Performance (SOP).

3. Student Reaches Maximum Age

For students who have not yet graduated from high school by meeting requirements without adaptations to regular graduation requirements, the district's obligation to provide special education services ends at the completion of the semester in which the student turns 21 years of age. This is considered a change of placement that does not require a reevaluation. If a student is turning 21, the district shall:

- a. provide the parent and/or adult student with written notice the district's obligation to provide special education services ends at the completion of the semester in which the student turns 21 years of age; and
- b. provide the parent and/or adult student written summary of academic achievement and functional performance which shall include recommendations to assist the student in meeting his or her postsecondary goals. This summary is known as the Summary of Performance (SOP).

B. Change in District Obligation to Provide Services

Under certain circumstances, a student may continue to be eligible for special education services, but the district's obligation to provide services changes.

1. Transfer to Another District

When a student moves out of the district, the district will forward the student's special education records electronically or by mail within 10 calendar days of the request from the new district. The records shall include, at least, the student's most recent individualized education program (IEP) and eligibility documentation. The sending district will retain copies or originals of the most recent 5 years of records, including IEPs and eligibility documentation. During an audit, Child Count verification, or monitoring, this documentation may be needed to demonstrate that the student was eligible for special education and received special education services from the district.

2. Enrollment in Private School or Receives Home Schooling

When a parent and/or adult student withdraws a student from public school and enrolls him or her in a private school or provides home schooling, the district's responsibilities vary depending on the circumstances. See Chapter 9 for more information.

3. Dropouts

When a student drops out of school, written notice will be sent to the parent and/or adult student and a copy of the notice will be placed in the student's special education confidential file. If the student reenrolls and is still eligible for special education, the previous IEP can be implemented if it is current and appropriate. A new IEP shall be developed if needed.

C. Request for Withdrawal from Special Education

When a parent and/or adult student requests withdrawal from special education services, an evaluation team shall determine whether the student is still eligible for special education services. Written notice shall be sent to the parent and/or adult student following the determination of whether or not the student is still eligible to receive special education services.

If the evaluation team determines that the student is still eligible for special education, the district will continue to provide services unless SDE mediation or a due process hearing decision determines otherwise.

Section 2. Graduation

Graduation means meeting district and state requirements for receipt of a high school diploma. If a student is not granted a regular high school diploma or if the high school diploma is granted based on completion of adapted graduation requirements, the student is entitled to receive a free appropriate public education (FAPE) through the semester in which he or she turns 21 years of age or determined no longer eligible as a result of a reevaluation. A General Education Development (GED) certificate does not meet district requirements that are comparable to a regular high school diploma. The IEP team making these decisions shall include a district representative knowledgeable about state and local graduation requirements.

A. Individualized Education Program (IEP) Team Requirements regarding Graduation

1. Determine whether the student will meet all state and local requirements to be eligible to graduate from high school and anticipated graduation date.
2. Develop the course of study in collaboration with the Parent Approved Student Learning Plan required for every student prior to the end of 8th grade.
3. Beginning no later than the end of the student's 9th grade, the IEP team shall review annually the student's course of study. The IEP team shall identify and make changes to the course of study needed for the student to meet graduation requirements .
4. The IEP team shall document any accommodations and adaptations made to the district's and state's regular graduation requirements on the student's behalf.
 - a. Graduation Requirements with Accommodations

Accommodations to graduation requirements are determined by the IEP team and are deemed necessary for the student to complete graduation requirements.
Further:

- 1) Accommodations to graduation requirements must specifically address completion of the student's secondary program.
- 2) Accommodations will maintain the same level of rigor to the district and state graduation requirements. For example, a teacher may use different instructional strategies or alternate methods for assessing the student's acquisition of skills that are equally rigorous.

- 3) Accommodations made to any district or state graduation requirement shall be stated in the student's IEP.

b. Graduation Requirements with Adaptations

Long-term consequences for the student shall be considered when adaptations are made to graduation requirements. Further:

- 1) Adaptations to graduation requirements shall specifically address completion of the student's secondary program.
- 2) Adaptations may alter the level of rigor required in the district or state graduation requirements. Examples of adaptations include changes made to course content, objectives, or grading standard that alter the level of rigor.
- 3) Adaptations of any district or state graduation requirement shall be stated on the student's IEP. The team should discuss with the parents the effect of adaptations on regular education diploma and FAPE.

5. Demonstration of Proficiency of State Achievement Standards State Board of Education rule (IDAPA 08.02.03.105.03) requires a demonstration of proficiency regarding the 10th-Grade Idaho Achievement Standards as a condition of graduation. Each student receiving special education services will include as part of his or her IEP a statement of how the student will demonstrate proficiency in the Idaho Achievement Standards as a condition of graduation. If the method is different than meeting proficient or advanced scores on the high school ISAT or an IAA, a student with an IEP may meet this requirement by:

- a. achieving the proficient or advanced score on the Idaho Standards Achievement Test (ISAT) or, for eligible students, on the IAA; or
- b. using the local alternate route established by the local school board as an alternate method of demonstrating proficiency; or
- c. completing alternate graduation requirements outlined in the IEP.

B. Graduation Ceremonies

A special education student who completes his or her secondary program through meeting graduation requirements or criteria established on his or her IEP will be afforded the same opportunity to participate in graduation ceremonies, senior class trips, etc., as students without disabilities.

Section 3. Transcripts and Diplomas

A. Transcript

The transcript serves as a record of individual accomplishments, achievements, and courses completed. Transcripts shall adhere to the following conditions:

1. Accommodations that allow the student to complete and demonstrate that he or she has met graduation requirements will not be noted on the transcript.
2. Adapted course work may be noted on the transcript if the parent and/or adult student is informed in advance and the designation is not discriminatory. More specifically, cannot identify the student as having a disability or receiving special education.
3. Course designations, titles, or symbols that are used solely to identify adapted course work that is taken by students with disabilities will not be used.

B. Diploma

1. For students who are eligible for special education services, the district will issue a high school diploma at the completion of their secondary program; this includes students who meet the graduation requirements with accommodations and/or adaptations.
2. A modified or differentiated diploma or certificate may not be used for students who are eligible for special education unless the same diploma or certificate is granted to students without disabilities in the same graduating class.

Section 4. Grades, Class Ranking, and Honor Roll

Grades earned by students with disabilities will not be categorically disregarded or excluded from district wide grade point average (GPA) standing. The district may establish objective criteria for class rankings, honors, etc., that weight courses according to degree of difficulty or exclude non core courses so long as such practices are nondiscriminatory. The district may use contracts with a student to establish grading criteria.

Chapter 8

CHARTER SCHOOLS

Federal law requires that students with disabilities be offered educational choices comparable to those offered to students without disabilities. One of these choices is the opportunity to attend a public charter school. Each public charter school, whether a charter school within a district (LEA) or a charter school LEA (Local Education Agency), shares in the obligation to accept and appropriately serve students with disabilities under the IDEA 2004 in the same manner as any other public school.

Section 1. Definition and Parent/Student Rights

A. Definition of Charter Schools

In Idaho, a charter school is a public school authorized by Chapter 52, Title 33-5205, Idaho Code. A charter school operates as a nonprofit, publicly funded, nonsectarian school in one of two ways:

1. as a school within a district, if authorized by the local board of trustees of a school district (LEA); or
2. as its own LEA, if authorized by the Idaho Public Charter School Commission.

A charter school is bound by the conditions of its charter, all federal laws, and Idaho Code.

B. The Rights of Charter School Students and Their Parents

A charter school student is a public school student. Students with disabilities who attend charter schools and their parents have all of the same rights granted to students who attend other public schools. These rights are provided under the Individuals with Disabilities Education Improvement Act 2004 (IDEA 2004); the Elementary and Secondary Education Act (ESEA), reauthorized as the No Child Left Behind Act (NCLB); Section 504 of the Rehabilitation Act (Section 504), the Americans with Disabilities Act (ADA); and the Family Education Rights and Privacy Act (FERPA). Idaho law specifically states that charter schools cannot discriminate against any student on any basis prohibited by federal or state constitutions or any federal, state, or local law. Under Idaho State Law, the charter of an authorized charter school outlines specific mission statements, policies and procedures.

Section 2. Responsibility for Services

A. Charter School Authorized by the District (See definition in Section 1.A.1)

The district is ultimately responsible to ensure that the requirements of the IDEA 2004 are met with respect to students attending charter schools authorized by the district. A charter school's compliance with the IDEA 2004, Part B, is required regardless of whether the charter school receives any Part B funds.

1. To ensure that a charter school authorized by the district meets IDEA 2004 requirements, the district shall ensure services to students with disabilities attending the charter schools are provided in the same manner as the district serves students with disabilities in its' other schools, including providing supplementary and related services onsite at the charter school to the same extent to which the district has a policy or practice of providing such services on the site to its' other public schools.
2. The district shall have information on file with the State Department of Education (SDE) that demonstrates students with disabilities who attend charter schools authorized by the district will receive special education and related services from either the district or the charter school (or a combination of both).
3. The district will ensure that its charter schools participate in all monitoring activities conducted by the SDE.

B. Charter School Operating as an LEA (See definition in Section 1.A.2)

Only the Idaho Public Charter School Commission has the authority to allow the creation of a public charter school that operates as an LEA. A charter school LEA, whether virtual or brick-and-mortar or combination thereof, has an obligation to accept and appropriately serve students with disabilities and is solely responsible to ensure that the requirements of the IDEA 2004 are met with respect to students enrolled. Compliance with the IDEA 2004, Part B, is required regardless of whether the public charter school receives any Part B funds. A charter school LEA shall:

1. participate in all monitoring activities conducted by the SDE; and,
2. in its first year of operation, participate in an onsite technical assistance visit by an SDE special education monitoring team to ensure that the essential components of a special education program are in place.

Section 3. Essential Components of a Special Education Program

The Idaho charter school law requires each petition for a charter to describe the manner by which special education and related services will be provided to eligible students with disabilities.

Prior to approving a petition for a charter school, the authorizing entity—either the district or the Idaho Public Charter School Commission—shall ensure the petition includes:

1. Nondiscriminatory enrollment procedures.
2. Adequate plans, policies, procedures, contractual or other arrangements, and budget to ensure that students with disabilities attending the charter school will receive special education and related services that meet all the requirements of the IDEA 2004. The petition should describe how the charter school and its authorizing entity will:
 - a. have special education and related services as identified in student IEPs, in place by the first day of the school year;
 - b. conduct Child Find activities and evaluations;
 - c. develop, review, and revise IEPs in accordance with state and federal law;
 - d. employ and use highly qualified special education personnel;
 - e. meet LRE requirements;
 - f. implement the IDEA 2004 discipline procedures; and
 - g. protect student and parent rights.
3. Provisions to employ special education and related services professionals who are appropriately licensed and/or certificated for the duties they are assigned.
4. A professional development plan for the training needs of special education personnel as well as general education teachers in order to meet the needs of students with disabilities who are enrolled in the charter school.
5. A plan that ensures access to charter school programs, as required by the ADA. This plan may include the actual location of the school, classrooms, and settings within the classrooms to permit access by students with disabilities.
6. A transportation plan for special education students who may, because of the nature of their disabilities, be entitled to specialized transportation as a related service, even if the charter school does not provide transportation to other students.
7. Provisions for notifying the authorizing entity in the event that a formal complaint or due process hearing request is filed by or on behalf of a charter school student.

Section 4. Charter Schools and Dual Enrollment

The Board of Trustees of a district shall adopt procedures governing dual enrollment. The parent or guardian of a student of school age who is enrolled in a public charter school shall be allowed to enroll the student in a public non-charter school for dual enrollment purposes. Any charter school student participating in dual enrollment may enter into any program in the non-charter public school that is available to other students. Special education services (specially designed instruction and related services designed to meet the unique needs of a student with a disability) will be provided as appropriate only in conjunction with enrollment in academic or non-academic programs so the students can meet the education standards of the district.

For detailed requirements and responsibilities governing dual-enrollment of charter school students, see Idaho Code 33-203 in Appendix 8.

Section 5. Funding

A. State Funds

The SDE will make apportionment payments (from state general funds) to each charter school based on attendance figures. The SDE will pay state funds directly to charter schools using the funding formula described in state law. A charter school may also be eligible for the following funds:

1. state funds for special education students who live in licensed group, foster, or personal care services homes under the provision of Idaho Code 33-1002B;
2. district-to-agency contract funds under a provision of Idaho Code 33-2004;
3. funds to serve high numbers of students with emotional disturbance under Idaho Code 33-2005; and
4. state enhancement funding sources.

B. Federal Funds

The SDE disburses federal flow-through funds to all authorized local education agencies (LEA's).

1. Charter School Authorized by the District

The district provides funds under Part B to those charter schools that are part of the district on the same basis as the district provides funds to the other public schools. This includes proportional distribution based on relative enrollment of students with

disabilities. This distribution is made at the same time as the district distributes funds to their other public schools and must be consistent with Idaho's charter school law. The individual school's approved charter will identify whether the district will provide funding or services of comparable value.

- a. The amount of funds or comparable services will generally be equal to the per student amount the district is allocated from the SDE in the current year multiplied by the charter school's December 1 Child Count from the **previous** school year.
- b. Under certain circumstances the district shall allocate Part B funds to an eligible charter school based on the number of special students enrolled and served in the **current** school year.
 - (1) The district will allocate funds to a charter school within 5 months of opening or significantly expanding its enrollment if the charter school notifies the district at least 120 calendar days before it opens or significantly expands its enrollment due to a significant event that is unlikely to occur on a regular basis (such as the addition of one or more grades or educational programs in major curriculum areas), and it takes place before February 1.
 - (2) When these conditions are met, the district will allocate funds to the charter school as follows:
 - i. If the opening or expansion occurs prior to November 1, the charter school will be allocated funds in the current school year based on the current school year's December 1 Child Count.
 - ii. If the opening or expansion occurs after November 1 but before February 1, the charter school will be allocated a pro-rata share of funds in the current school year based on the number of enrolled special education students with active IEPs 30 days after the opening or expansion. The pro-rata share will be the number of days the charter school will be open or expanded, divided by the number of days in the school year, multiplied by the number of special education students.
 - (3) If the opening or expansion occurs on or after February 1, the charter school will be allocated funds in the following school year based on the **following** school year's December 1 Child Count.
- c. For school districts that have authorized a virtual charter school and the charter school's students are enrolled in the district but live outside district boundaries and receive education outside the district, the SDE will determine the district's Title VI-B funding in the following way:

- (1) The calculation of the district's allocation will be made exclusive of the charter school's enrollment and special education enrollment (student count).
- (2) After calculating the allocations for all districts using the federal funding formula and the distribution formula for any supplemental award, the SDE will determine the statewide average per-student allocation.
- (3) The SDE will add to the district's base allocation an amount equal to the statewide average per-student allocation times the number of students with disabilities enrolled in and determined to be eligible for and receiving special education services.

2. Charter School Operating as an LEA

Public charter schools that are LEA's are responsible for adopting and implementing approved policies and procedures for special education and providing an assurance that funds will be used in accordance with Part B allowable uses.

- a. In the second and subsequent years of operation, Charter School LEAs will be allocated Part B funds in the same manner as all school districts – in accordance with the federally prescribed funding formula for the distribution of flowthrough funds.
- b. The policy for providing federal special education funds to new charter LEAs in the first year of operation, as required by federal regulation, includes the following steps:
 - (1) The LEA submits its December 1 Child Count as required by IDEA 2004.
 - (2) A Special Education Section monitoring team visits the new LEA to review the files of the students reported on the Child Count.
 - (3) The monitoring team determines the number of students meeting all eligibility requirements and receiving appropriate special education and related services.
 - (4) Based upon the number of students determined to be eligible, amounts of first-year Part B funds for allocation to the charter LEA are calculated as follows:
 - i. The statewide average per-student amount of Part B funding in the current year is determined.
 - ii. That amount is multiplied by the number of students who meet all eligibility requirements and are receiving appropriate special education services to determine the total allocation.

(5) The charter LEA then shall complete the Title VI-B application documents.
These include:

- i. Assurances and Policies and Procedures Adoption
- ii. Maintenance of Effort Assurance
- iii. Title VI-B Budget Form

(6) Once the application is submitted and approved, the charter LEA may begin drawing down these funds for the approved special education purposes.

Chapter 9

PRIVATE SCHOOL STUDENTS

The Individuals with Disabilities Education Improvement Act of 2004 (IDEA 2004) and Idaho Administrative Code includes the following:

- ▶ statutory and regulatory language, which states that students who are voluntarily enrolled in private schools are not entitled to all of the same services, including the right to FAPE, as public school students;
- ▶ district responsibilities for special education students under Idaho's dual enrollment law; and
- ▶ the legal requirements that come into play when a parent unilaterally enrolls his or her child in a private school and asks the district for reimbursement of these costs.

Section 1. Definitions of Private School Placements

In order to describe the district's responsibilities for serving private school students, it is helpful to distinguish three separate ways that students are placed in private schools. These are defined by who enrolls or places the student in a private school and why.

A. Definition of Voluntary Enrollment by a Parent

A parent may choose to enroll his or her child in a private school for a variety of personal reasons, such as to obtain a religious education, to attend a school with a particular philosophy or curriculum, or because the parent is dissatisfied with the services offered or provided by the district. This is considered a voluntary enrollment. See Section 2 and Section 4 of this chapter for district responsibilities.

B. Definition of District Placement

At times, the district may place a student in a private school or facility to fulfill its obligation to provide a free appropriate public education (FAPE). These placements are always made by an individualized education program (IEP) team in accordance with the requirements of Section 3 of this chapter.

C. Definition of Unilateral Placement of Students with disabilities by their Parents when FAPE is an issue

A parent may withdraw a student with a disability from a public school and then enroll the student in a private school or provide services from a private provider at parent expense because he or she believes the district has not provided FAPE in a timely manner. The parents may attempt to seek-reimbursement for the costs associated with the placement. All students who are

placed by a parent when FAPE is an issue are also voluntarily enrolled in a private school. Specific information regarding a parent's request for reimbursement of costs of student enrollment in a private school in this situation is included in Section 5 of this chapter.

Section 2. Students Voluntarily Enrolled by Parents

A. District Consultation with Private School Representatives (may be done in coordination with Title 1 requirements for consultation)

To ensure timely and meaningful consultation a district will consult with private school representatives and representatives of parents of parentally placed private school students with disabilities during the design and development of special education and related services for the students. The consultation process shall include;

1. Child Find: The Child Find process and how parentally placed private school children suspected of having a disability can participate equitably, including how parents, teachers, and private school officials will be informed of the process.
2. Proportionate Share of Funds: The determination of the proportionate amount of federal funds available to serve parentally placed private school children with disabilities under this subparagraph, including the determination of how the amount was calculated. Refer to Section 2 for information regarding the calculation of the proportionate share of funds.
3. Determination of Special Education and Related Services: Given the amount of funds to be dedicated by the district, the discussion will include the consideration of how, where, and by whom special education and related services will be provided for parentally placed private school students with disabilities, including:
 - a. types of services, including direct services and alternate service delivery mechanisms;
 - b. how such services will be apportioned if funds are insufficient to serve all students;
 - c. how and when these decisions will be made; and
 - d. how the provided services will be evaluated.
4. Ongoing Communication: Clarify how the private schools and district will operate throughout the school year to ensure that parentally placed private school students with disabilities identified through the Child Find process can meaningfully participate in special education and related services. Annual consultation is not required to make these decisions. The district determines the period between consultations based on changing circumstances within the district, such as significant changes in the total amount of

funds to be expended and/or the number and location of private school students with disabilities.

5. Written Affirmation: When timely and meaningful consultation has occurred:
 - a. the district will obtain a written affirmation signed by the representatives of participating private schools;
 - b. if the representatives do not provide the affirmation within a reasonable period of time the district will forward the documentation of the consultation process to the State Department of Education (SDE).
6. District Decisions: Following consultation with the private school representatives, the district will make final decisions concerning items a-d addressed above in number 3.
7. Written Explanation by the District Regarding Services: If the district disagrees with the views of the private school officials on the provision of services or the types of services, whether provided directly or through a contract, the district will provide to the private school officials a written explanation of the reasons why the district chose not to provide services directly or through a contract.

B. Compliance with Consultation Process

1. General Compliance: A private school official has the right to submit a complaint to the SDE that the district:
 - a. did not engage in consultation that was meaningful and timely; or
 - b. did not give due consideration to the views of the private school official.
2. Procedure for Complaint
 - a. If the private school official wishes to submit a complaint, the official will provide the basis of the complaint to the SDE.
 - b. The district will forward the appropriate documentation to the SDE.
 - c. If the private school official is dissatisfied with the decision of the SDE, the official may submit a complaint to the Secretary of the US Department of Education by providing the basis of the complaint against the district to the Secretary, and the SDE will forward the appropriate documentation to the Secretary.

C. Child Find Requirements

The district shall have an ongoing Child Find system to locate, identify, and evaluate all students with disabilities ages 3 through 21 who are educated within the district's geographic boundaries. This includes students who have been placed by a parent in a private elementary or secondary school (including a religious school) located in the district regardless of the student's state or local residency.

The Child Find process will be designed to encompass the following:

1. The Child Find process will ensure the equitable participation of parentally placed private and home school students with disabilities.
2. Child Find activities for private school students will be similar to Child Find activities for public school students, which include the evaluation process within comparable timelines.
3. The district will consult with private school representatives and representatives of parents who place their children in private schools regarding the Child Find procedures.

D. Annual Count of Eligible Students

The district shall conduct an annual count on December 1 and report to the State Department of Education the number of private school children evaluated, the number found eligible and the number who are provided with special education services. This includes 3-5 year olds identified through the child find process that are enrolled in private schools that meet the definition of an elementary school. This count will be used to determine the amount of funds the district shall expend providing special education and related services to private school students in the next school year (see Section 2E). The district will consult with representatives of private school students to determine how to conduct the count.

E. Provision of Services

Provision of services applies to all eligible students who attend private schools within the district's geographical boundaries regardless of where they reside. Parentally placed private school students with disabilities do not have an individual right to receive some or all of the special education and related services that the student would receive if enrolled in a public school. Services offered to parentally placed private school students are determined through the district and private school consultation process.

1. District Responsibilities

- a. Private school students with disabilities may receive a different amount of services than public students with disabilities; they are not entitled to every service or the amount of service that they would receive if enrolled in public school. This means that it is possible for a private school student to receive only a related service or piece of equipment.
- b. Special education and related services provided to parentally placed private school students with disabilities, including materials and equipment, will be secular, neutral and non-ideological.
- c. The district is required to offer FAPE to private school students who reside in their district, including when the student attends a private school outside of the district boundaries unless the parent makes clear their intention to keep their child in the private school.
- d. Services may be provided at a public school building or another agreed upon site (including parochial schools to the extent consistent with the law) determined by the district in consultation with appropriate representatives of private school students.
- e. Services provided to private school students with disabilities must be provided by personnel meeting the same standards as personnel providing services in the public schools.

2. Eligibility for Services

If an evaluation team determines that a student needs special education and related services:

- a. The district of residence shall offer to make FAPE available upon enrollment or dual enrollment in a district public school; or
- b. If the parent chooses not to enroll the student in the district of residence and designated funds are available in the district in which the private school is located, a meeting will be held to develop a Services Plan (SP). The meeting will include a representative of the private school to develop a Services Plan (SP).
- c. Any services the district provides to a private school student shall be in accordance with an SP.

3. Service Plan Development

The Service Plan (SP) shall describe the specific special education and related services that will be provided to the student in light of the determinations that have been made

by the district. To the extent appropriate, the district shall initiate and conduct meetings to develop, review, and revise SPs in accordance with the following requirements:

- a. Given the services that the district has elected to provide to private school students, the SP must meet the requirements of the IEP to the extent appropriate (see Chapter 5). The SP excludes sections pertaining to:
 - (1) extended school year (ESY) services;
 - (2) participation in statewide and district wide assessments;
 - (3) placement determination (LRE);
 - (4) December 1 federal report settings; and
 - (5) elements that, although typical for an IEP, would be inappropriate given the services the district has elected to provide.
- b. An SP shall be in effect at the beginning of each school year and accessible to each person responsible for its implementation.
- c. Meetings shall be held to review and revise SPs at least annually to address any lack of student progress toward goals and in the general education curriculum.
- d. The SP team members include the same members as an IEP team. The district will ensure that a representative of the private school attends these meetings or participates by some other means.
- e. A parent shall be invited to SP meetings at a mutually agreed upon date and time. The invitation must indicate the purpose, time, and location of the meeting. The parent shall be informed that he or she may bring other persons knowledgeable about the student to the meeting. A copy of the SP will be given to the parent.
- f. The team developing the SP will consider the student's strengths and results of the most recent evaluations. The private school general education teacher should participate in the development, review, and revision of the SP.
- g. If necessary for a private school student to benefit from or participate in the services the district has selected to provide, the district shall provide transportation from the student's school or home to the site where services will be provided. The district shall take the student back to either the private school or the home, depending on the timing of the services. In this sense, transportation is not a related service but a means of making the services offered accessible. Transportation costs may be included in the district's expenditure requirement. The district is not required to transport the student from home to the private school.

F. Dispute Resolution

Due process hearings are available to parents of private school students only on the issue of Child Find and evaluation. Parents may challenge decisions regarding the provision of services by filing a formal complaint with the SDE.

G. Determining the proportionate funding for private school students

IDEA 2004 requires school districts to dedicate a proportionate share of funds received under Part B to provide services for parentally placed students with disabilities who attend private schools within the boundaries of the district, regardless of their place of residence. To determine this proportionate amount, the district shall first determine the number of these private school students through the Child Find activities developed in the consultation process with private school representatives.

The number of parentally placed private school students is divided by the total (public and private) number of students with disabilities in the district to arrive at the percentage of private school students with disabilities. This percentage is then applied to the total funding received by the district under Part B grants Section 611 (ages 3-21) and Section 619 (ages 3-5) to determine the district's obligation.

Example for the XYZ School District:

- A. The number of parentally placed private school children within the district on December 1, 2005: **10**
 - B. The number of public school children with disabilities on December 1, 2005: **90**
 - C. Percentage of private school children with disabilities: **A** divided by **A+B = 10%**
 - D. Total Part B funds allocated for school year 2006-2007: **\$150,000**
 - E. Amount the district shall spend on providing special education and related services to parentally-placed private school students in 2006-2007: **C x D = \$15,000**
1. State and local funds may supplement but may not supplant the proportionate amount of Federal funds required to be expended for parentally-placed private school children with disabilities.
 2. The costs of private school consultations and of carrying out child find activities may not be paid from the proportionate share of funds.
 3. The cost of any special education or related service, such as direct service, consultation, equipment, materials, or transportation may be used to determine that the district has

satisfied its expenditure requirement for private school students with disabilities.

4. If all proportionate funds set aside for private school students in a given fiscal year are not expended in that year they shall be carried forward into the next year for the purpose of providing equitable services.

H. Expenditure Guidelines

1. The district may place equipment and supplies that are purchased with Part B funds in a private school for a period of time needed for a program for eligible students with disabilities; however, the district shall:
 - a. retain title and exercise continuing administrative control over all equipment and supplies;
 - b. ensure that all equipment and supplies are used only for Part B purposes;
 - c. ensure that all equipment and supplies can be removed without remodeling the private school; and
 - d. remove equipment and supplies if necessary to prevent unauthorized use.
2. The district may use Part B funds to pay an employee of a private school to provide services to students with disabilities when the employee performs the services:
 - a. outside of his or her regular hours of duty; and
 - b. under public supervision and control.
3. Part B funds shall not be used to:
 - a. finance the existing level of instruction in the private school or otherwise benefit the private school;
 - b. meet the needs of the private school; or
 - c. meet the general needs of students enrolled in the private school.
4. Part B funds shall not be used for repairs, remodeling, or construction of private school facilities.
5. If it is possible for classes to include students enrolled in both public and private schools, then the classes must not be organized separately on the basis of school enrollment or religion.

6. The district shall not appropriate any funds to private schools controlled by any church, sectarian, or religious denomination.

Section 3. Students Placed by the District

When the district places a student with a disability in a private school or facility, as a means of providing special education services, the district shall ensure the following:

1. All special education procedures and timelines are followed.
2. Special education and related services are provided in accordance with an IEP.
3. A representative of the private school or facility attends or participates in the meeting to develop the IEP.
4. The responsibility for reviewing and revising IEPs remain with the district.
5. Services are provided at no cost to the parent, including reimbursement to the parent for transportation and other costs associated with participation at an IEP meeting conducted in a geographical area outside the jurisdiction of the district.
6. The placement in the private school or facility is the LRE for that student.
7. The student is provided an education that meets state and district standards.
8. The student is afforded the same rights as students with disabilities who attend public schools.
9. The parent is afforded the same rights as parents of students attending public schools.

In accordance with federal and state law, the SDE shall approve special education programs in private schools and facilities. The district shall ensure a program is approved prior to placing a student in that school or facility.

At the discretion of the district, once a student with a disability enters a private school or facility, meetings to review and revise the IEP may be initiated and conducted by the private school or facility. If the private school conducts a meeting, the district shall ensure that the parent and a district representative are involved in and agree to any proposed changes in the IEP before the changes are implemented.

Section 4. Dual Enrollment of Private School Students by Parents

According to Idaho Code, parents of private school students “shall be allowed to enroll the student in a public school for dual enrollment purposes.” Private school students who are dually enrolled are considered to be nonpublic school students. The district shall allow private school students who are eligible for special education and who are otherwise qualified to participate in school programs under the dual enrollment law to:

1. enroll in general education courses under the same criteria and conditions as students without disabilities; and
2. receive accommodations in the general education courses for which they are enrolled on a 504 plan, if needed.

Private school students may not dually enroll solely for special education. The dual enrollment statute does not establish an entitlement to FAPE for a student with a disability. This means that there is no individual right to receive some or all special education services that the student would receive if enrolled in public school.

The reporting of attendance for private school students in the district is allowed under dual enrollment. If a student attends at least 2.5 hours per week without rounding hours, he or she shall be included in the weekly aggregate attendance. The average daily attendance (A.D.A.) is computed as .5 if the aggregate weekly hours are 2.5 or greater but less than 4.0 hours. When there are 4.0 hours or greater, divide by 4 to get the A.D.A.

Dually enrolled private school students could also be eligible to receive services that have been agreed upon through the district and private school consultation process. These services would be delivered through a Service Plan.

Section 5. Unilateral Placement of Student by Parents When FAPE is an Issue

A. General Provisions for Reimbursement to the Parent

1. The district is required to make FAPE available to all eligible students with disabilities. If parents do not access FAPE, then the district is required to make provisions for private school students to receive Part B services consistent with Section 2E of this chapter.
2. The district is not required to pay for costs of tuition, special education, or related services and associated costs at a private school or facility for a student who was unilaterally placed there by a parent if the district made FAPE available to the student in a timely manner. If a parent disagrees with the availability of FAPE and there is a question about financial responsibility, the parent may request a due process hearing

3. If the parent of a student with a disability, who previously received special education and related services from the district, enrolls the student in a private elementary or secondary school without the consent of the district, a court or hearing officer may order the district to reimburse the parent for the costs of unilaterally placing the student in a private school if the court or a hearing officer determines that:
 - a. the district had not made FAPE available to the eligible student in a timely manner prior to the time the parent enrolled the student in the private school; and
 - b. the parent's placement is appropriate.
4. A hearing officer may find a student's placement in a private school or facility by a parent appropriate even if the private school or facility does not meet state standards.

B. Denial or Reduction of Reimbursement to the Parent

A court or hearing officer may reduce or deny reimbursement to a parent for the cost of a unilateral placement in a private school or facility under the following circumstances:

1. The parent did not inform the district that he or she rejected the placement proposed by the district to provide FAPE and did not state his or her concerns and intent to enroll the student in a private school. This written notification by the parent shall be provided to:
 - a. the IEP team at the most recent IEP meeting prior to removing the student from the public school; or
 - b. the district at least 10 business days (including any holidays that occur on a business day) prior to removing the student from public school.
2. Prior to removal of the student from the public school, the district informed the parent of its intent to evaluate the student (including a statement of the purpose of the evaluation that was appropriate and reasonable), but the parent did not make the student available for the evaluation.
3. A judicial decision finds unreasonableness with respect to the actions taken by the parent.

Reimbursement shall not be reduced or denied under any of the following circumstances:

1. The district did not notify the parent of his or her obligation to provide the notice set forth in number 3 above or the district/school prevented the parent from providing that notice.
2. The parent had not received written notice.

3. The district's proposed placement would likely result in physical harm to the student.

Reimbursement may not be reduced or denied at the discretion of a court or hearing officer for failure to provide this notice if:

1. The parents are not literate or can not write in English, or
2. The district's proposed placement would likely result in serious emotional harm to the student.

B. Shortage of Personnel

If there is a shortage of highly qualified personnel, the district shall take measurable steps to recruit and hire highly qualified personnel to provide special education and related services to students with disabilities. However, when a professional position cannot be filled with an individual who has the appropriate certification, vacant positions may be filled with personnel on the following approved alternate pathways to teaching:

1. Teacher to New Certification – An individual holds a Bachelor's degree and a valid teaching certificate without full endorsement in area of need. The candidate works towards completing a preparation program for special education certification and is employed by the district.
2. Content Specialist – An individual who is highly and uniquely qualified in an area holds a Bachelor's degree. The candidate works towards completing a preparation program while employed by the district. The preparation program must include mentoring, one classroom observation per month until certified, and prior to entering the classroom; the candidate completes an accelerated study in education pedagogy.
3. Computer Based Route to Teacher Certification – An individual may acquire interim certification through a computer-based alternative route to teacher certification that is approved by the State Board of Education. On November 4, 2003, the Idaho State Board of Education passed a temporary rule approving ABCTE (American Board for Certification of Teacher Excellence) as an alternate route to Idaho certification. During the interim certification, teaching shall be done in conjunction with a two year mentoring program approved by the Board.

Further information and all requirements for each alternative route to certification are available in Idaho Administrative Code (IDAPA 08.02.02) and the Idaho Standards for the Initial Certification of Professional School Personnel document (June 2005).

Nothing in the IDEA 2004 creates a right of action for due process on behalf of a student or class of students for failure to employ highly qualified staff.

C. Paraprofessionals, Assistants, and Aides

The district may employ paraprofessionals, assistants, and aides who are appropriately trained and supervised to assist in the provision of special education and related services to students with disabilities if they meet standards established by the SDE (see pages 147-156).

Appropriate duties to be performed by paraprofessionals are:

1. Provide one-on-one tutoring for eligible students during non-instructional time by a teacher or related service provider.
2. Assist with classroom management and organizing materials.
3. Provide assistance in a computer lab or media center.

4. Conduct parental involvement activities.
5. Act as a translator.
6. Assist in provision of instructional services only under the direct supervision of a certified teacher or related service provider.
 - a. Teacher plans instruction and evaluates student achievement.
 - b. Paraprofessional works in close and frequent physical proximity to teacher or related service provider.

A special education paraprofessional working in a Title I school-wide program shall be highly qualified as demonstrated by the competencies listed in the NCLB Act.

1. Strategies to Assist Individuals in Meeting Paraprofessional Standards

The district shall assist individuals in meeting the paraprofessional standards established by the SDE. A variety of strategies may be used to assist individuals in developing the skills necessary to meet the paraprofessional standards, including:

- a. participating in on-the-job training with follow-up provided by the supervising teacher;
- b. reading printed materials;
- c. participating in workshops;
- d. viewing videos;
- e. completing university course work;
- f. conducting personal research and studying; or
- g. training sponsored by the district.

2. Verifying that an Individual Has Met Paraprofessional Standards

The district will determine the means of verification that will be used to assess whether individuals working with students with disabilities have met the paraprofessional standards. Competence may be demonstrated in a variety of ways, such as:

- a. successful performance of duties;
- b. interview with the paraprofessional;
- c. observation;
- d. portfolio assessment;

- e. completion of a course or workshop; or
- f. verification from a former employer.

The district may encourage qualified para-educators employed in their classrooms to become certified teachers. The alternative route preparation program for para-educator to teacher must be completed within five years of admission to the program. Candidates work toward completion of a preparation program while employed by the school district.

D. Educational Interpreters

The district may only employ an individual as an educational interpreter if they have met the state qualifications identified in Idaho Code 33-1304. Educational interpreters employed by the district shall complete a minimum of eighty (80) hours of training in the areas of interpreting or translating every five years.

E. Supervision of Staff

A teacher and/or a related service provider with appropriate certification or licensure who has been informed of his or her specific responsibilities related to a student's IEP has the primary responsibility to ensure the appropriate implementation of the IEP. The district has policies and procedures for the supervision and evaluation of all certificated/licensed or contracted employees.

The certificated/licensed teacher and/or related service provider will generally be responsible for the supervision of all paraprofessionals, assistants, and aides who provide direct services to students with disabilities. All paraprofessionals, assistants, and aides must have a supervision plan developed by a certificated or licensed professional.

F. Professional Development Plan

The district will take measures to ensure that all personnel necessary to provide special education and related services according to IDEA 2004 are appropriately and adequately prepared. Personnel may use a variety of opportunities for technical assistance and training activities to further develop professional knowledge and skills in order to meet the needs of students with disabilities.

To the extent the district determines it is appropriate, paraprofessional personnel may use the technical assistance and training activities offered by the district or SDE to fulfill part of the Standards for Paraprofessionals Supporting Special Needs Students. See pages 151-160 for a list of the standards.

- b. a parent has obtained legal guardianship including the scope of educational matters.
- 2. Basis for Denial of Transfer: During the IEP meeting to discuss the transfer of rights, the IEP team will use the following as the basis for any denial of the transfer:
 - a. Evaluation data, test results, written reports, teacher observation, education records, and parent input, including whether the parent intends to seek guardianship.
 - b. Answers to the following questions:
 - (1) Is the student capable of understanding his or her rights?
 - (2) Is the student capable of exercising his or her rights?
 - (3) Is the student capable of understanding the consequences and impact of his or her decisions?
- 3. Following a Determination Concerning the Transfer of Rights: When the student's special education rights transfer at age 18, the parent and student will be informed that rights have transferred. The IEP shall contain a statement referring to the transfer (or not) of rights:
 - a. If the team determines that there is no relevant information about the student to prohibit the transfer of rights at age 18, the student's IEP shall contain a statement that the student has been informed that special education rights will transfer to him or her. The parent retains the right to receive notices required by the IDEA 2004.
 - b. If the IEP team determines that the student lacks the ability to provide informed consent with respect to his or her educational program, a statement will be included in the IEP indicating that the parent, or other individual if the parent is not available, will retain all special education rights after the student reaches age 18.
 - c. If rights have transferred, the district shall continue to provide notices to the parent, but nothing under the IDEA 2004 requires parent participation in the process.
- 4. Revoking a Transfer of Rights: There is nothing in federal or state law that prohibits the IEP team from changing its decision later, based on new information and input. Under state law, a parent can provide legal documentation of a student's incompetence *after* the student reaches age 18.

D. Emancipated or Married Minors

Idaho law does not provide for the emancipation of minors. However, minors who have been emancipated by a court of law in another state are considered an adult in Idaho. Emancipated minors should be able to provide the legal court document awarding them the power and capacity of an adult. A student under age 18 who claims to be an emancipated minor but is

unable to provide documentation should be assigned a surrogate parent by the district if a parent cannot be located.

Students under the age of 18 who are married to an adult, 18 years or older, are not emancipated minors in Idaho and do not have the power and capacity of an adult student. Instead, the spouse acts as the guardian of the student regarding legal rights and responsibilities.

E. Ward of the State

The term “ward of the state” means a child who, as determined by the state where the child resides, is a foster child, or a ward of the state *or* is in the custody of a public child welfare agency. The term does not include a foster child who has a foster parent who meets the definition of a parent in Section 2A.

F. Child Custody

1. Definitions of Custody

The following definitions of custody are used by Idaho courts in divorce proceedings:

- a. **Joint custody** means an order awarding custody of a minor child to both parents and providing that physical custody shall be shared by the parents in such a way as to assure the child frequent or continuing contact with both parents. A court may award either joint physical custody or joint legal custody, or both. If the court has declined an order awarding joint custody, the court order shall state in the decision the reason for denial of joint custody.
- b. **Joint physical custody** means awarding each of the parents significant periods of time in which a child resides with or is under the care and supervision of each of the parents. The actual amount of time with each parent is determined by the court. Generally, one of the parents is awarded primary physical custody.
- c. **Joint legal custody** means that the parents or parties are required to share the decision-making rights, responsibilities, and authority relating to the health, education, and general welfare of a child. In Idaho, parents have joint legal custody unless the rights of one or both parents have been terminated.

2. Conflicts Between Parents Who Have Joint Custody

- a. **Custody questions:** When it is known that a custody question exists that involves the relevant legal status of one or both parents of a student, the district will ask the parent(s) to furnish a copy of the pertinent court order or decree, if one exists, to clarify the question at issue. School personnel will abide by the most recent court order or decree.

4. Screening to determine appropriate instruction strategies for curriculum implementation.
5. A disclosure of personally identifiable information to persons authorized to have access under FERPA.
6. An IEP team reviews and revises a student's IEP. However, the parent and/or adult student may file a written objection if he or she disagrees with all or part of the changes to the IEP.

D. Refusal to Give Consent

At times, a parent and/or adult student may refuse to give written consent for an assessment or the release of information that the district believes is necessary to ensure FAPE during the reevaluation process.

If the parent does not provide consent for the reevaluation assessment, the district may choose not to pursue requesting SDE mediation and/or a due process hearing if the district determines through a review of existing data, that the information does not continue to support the determination of eligibility for special education services. In this case the district shall provide the parent with written notice of the proposed action to discontinue the provision of FAPE to the student based on a review of existing data.

The district may also choose to pursue the reevaluation through SDE mediation and/or by requesting a due process hearing. If the hearing officer determines that the action is necessary, and the parent and/or adult student does not appeal the decision, the district may proceed with the proposed action. The district shall provide the parent with written notice of the proposed actions.

The district shall secure written consent for the initial provision of special education and related services. There is no mechanism available to overturn a parent's/adult student's decision *not* to provide written consent for initial evaluation or initial provision of services. In the case of an initial evaluation or initial provision of services, if a parent and/or adult student fails to respond to reasonable measures to gain consent or does not consent the district cannot be charged with failing to provide FAPE to the student and is not required to convene an IEP meeting or develop an IEP for special education or related services.

E. Failure to Respond to a Request for Consent Regarding Reevaluation Assessment

When a parent and/or adult student fails to respond to reasonable measures taken by the district to obtain written consent to determine continued eligibility, the district may proceed with the evaluation. The district shall have a record of its attempts to gain consent by documenting telephone calls made or attempted, correspondence sent, or visits made to the home or place of employment. Failure to respond is not the same as refusing consent for reevaluation.

F. Revoking Consent

Consent previously given for an evaluation or an individual assessment, the initial provision of special education and related services, and the disclosure of information may be revoked only before the action occurs. If consent is revoked, the district may continue to pursue the action by using SDE IEP Facilitation, mediation and/or requesting a due process hearing (this does not include the initial provision of special education and related services). If the hearing officer determines that the action for which consent is sought is necessary, and the decision is not appealed, the district may proceed with the action without the written consent of the parent and/or adult student. Consent must be revoked in writing.

Section 4. Written Notice**A. Definition**

Written notice is the act of informing a parent and/or adult student, in writing within a reasonable amount of time, before the district proposes or refuses to initiate or change the student's identification, the evaluation, educational placement, or provision of FAPE.

B. Criteria for Written Notice

1. Written notice must be provided in a reasonable amount of time before implementing the proposed action.
2. Written notice shall be in a language understandable to the general public. It must be provided in the native language or other mode of communication normally used by the parent and/or adult student unless it is clearly not feasible to do so. If the native language or other mode of communication is not a written language, the district shall take steps to ensure the following:
 - a. The notice is translated orally or by other means in the native language or other mode of communication.
 - b. The parent and/or adult student understands the content of the notice.
 - c. There is written evidence that the notice requirements of this section have been met, such as a written record in the student's special education file documenting what was discussed.

When a parent and/or adult student disagrees with the district's written notice of a proposed or refused action, he or she can attempt to remedy the dispute using SDE IEP Facilitation, mediation, formal complaint procedures, or due process hearing procedures afforded by the IDEA 2004. In addition, the parent and/or adult student may have the right to prevent the district from taking action by filing a written objection with the district.

C. Written Notice Is Required

1. The district shall provide written notice before proposing to initiate or change the following:
 - a. identification of the student;
 - b. any assessments for initial evaluation or reevaluation;
 - c. educational placement; or
 - d. the provision of FAPE.
2. After the district's decision to refuse a parent and/or adult student's request to initiate or change the identification, assessment, placement, or provision of FAPE.
3. If the district refuses to convene an IEP team meeting at the request of a parent and/or adult student.
4. When the evaluation team determines that additional assessments are not required during a reevaluation to determine whether the student continues to meet eligibility criteria, the district shall provide written notice to the parent and/or adult student of the decision and the reasons for that decision. The parent and/or adult student must also be informed of his or her right to request assessments when necessary to determine continued eligibility.
5. The district is required to give written notice specifically to the issues raised in the due process hearing request within 10 days of receiving the request.

D. Written Notice is Not Required

The district is not required to provide written notice in the following situations:

1. When reviewing existing data as part of an evaluation or a reevaluation. However, the parent and/or adult student shall be afforded the opportunity to participate in the review of existing data.
2. When tests are administered to both general and special education students in a grade or class.
3. When teacher or related service provider observations, ongoing classroom evaluation, or criterion-referenced tests are used as assessments in determining the student's progress toward goals and benchmarks/objectives on the IEP.
4. Notice is not required if outside observation is in relation to teacher's general practices.

E. Content of Written Notice

The content of written notice is intended to provide the parent and/or adult student with enough information so that he or she is able to fully understand the district's proposed action or refused action and to make informed decisions, if necessary. The written notice shall include the following:

1. a description of the action proposed or refused by the district;
2. an explanation of why the district proposes or refuses to take the action;
3. a description of any other options the IEP team considered and the reasons why those options were rejected;
4. a description of each procedure, assessment, record, or report that the district used as a basis for the proposed or refused action;
5. a description of any other factors relevant to the proposed or refused action;
6. a statement that the parent and/or adult student has special education rights and a description of how to obtain a copy of the *Procedural Safeguards Notice*; and
7. sources to contact in obtaining assistance in understanding the *Procedural Safeguards Notice*.

F. Objection to District Proposal

If a parent and/or adult student disagrees with an IEP change or placement change that is proposed by the district, he or she may file a written objection to all or part of the proposed change. The district will respond as follows:

1. If the objection is postmarked or hand delivered within 10 calendar days of the date the parent and/or adult student received the written notice, the changes to which the parent and/or adult student objects cannot be implemented.
2. If a proposed change is being implemented during the 10-day period and an objection is received, the implementation of that change shall cease.
3. If an objection is made after 10 calendar days, the district may continue to implement the change, but the parent and/or adult student retains the right to exercise other procedures under the IDEA 2004.

The parties may resolve a disagreement using informal methods, such as additional IEP team meetings, IEP facilitation, and SDE mediation. If these informal attempts fail, the district may request a due process hearing regarding the proposed change. A parent's/adult student's written

objection to an IEP or placement change cannot be used to prevent the district from unilaterally placing the student in an IAES in accordance with the IDEA 2004 procedures for discipline of a student.

Section 5. Confidentiality and Access to Records

The district shall collect, use, and maintain information about a student to make appropriate decisions concerning special education and the provision of FAPE. A student's special education case manager, usually the special education teacher, should organize all relevant records specific to district guidelines and the IDEA 2004 requirements.

The IDEA 2004 and FERPA contain provisions to protect the confidentiality of personally identifiable information in student special education records. These statutes also provide for the right to review and inspect records.

A. Definition

A "record" is defined as personally identifiable information directly related to the student and maintained by the district. A student record can be written or electronic.

1. The term "record" may include, but is not limited to, the following:
 - a. identifying data (name, address, parents, siblings, Social Security number, list of personal characteristics making identification possible);
 - b. academic work completed (courses taken, transcript);
 - c. level of achievement (grades, portfolios, performance assessments, scores on standardized achievement tests, etc);
 - d. attendance data;
 - e. scores and protocols of standardized intelligence, aptitude, and psychological tests;
 - f. records of teachers, counselors, medical personnel, and psychologists working directly with a student if disclosed to others;
 - g. interest inventory results;
 - h. observations and verified reports of serious or recurring behavior patterns;
 - i. videotapes or audiotapes;
 - j. health data including medical assessments;
 - k. family background information;

- l. transportation records; and
 - m. student records maintained by agencies and individuals contracting with the district.
2. The term “record” does not include:
- a. records of instructional, supervisory, ancillary, and administrative personnel that are kept in the sole possession of the maker of the record and are not accessible or revealed to any other person except a temporary substitute for the maker of the record;
 - b. records created by law enforcement units of schools and maintained separately for non-educational purposes; and
 - c. employment records about a student who is employed by a school or district.

B. Protection of Records

The district shall prevent unauthorized disclosure of personally identifiable information pertaining to students with disabilities. “Disclosure” is the release, transfer, or other communication of education records or of personally identifiable information contained in those records to any party, by any means, including oral, written, or electronic.

To ensure protection of records, the district shall do the following:

1. Obtain written and dated consent from the parent and/or adult student before disclosing personally identifiable information:
 - a. to unauthorized individuals; or
 - b. for any purpose except as required by the IDEA 2004, Part B.

In the event that a parent and/or adult student refuses consent for disclosure, SDE mediation may be offered as a voluntary way of resolving the disagreement

2. Designate and train a records manager to assure security of confidential records for students with disabilities.
3. Maintain a log of requests for access to education records if the disclosure is not to:
 - a. a parent and/or adult student;
 - b. a school employee with a legitimate educational interest;

- c. a party seeking designated directory information; or
- d. a party receiving the records as directed by a federal jury or other subpoena ordering no one to disclose the existence of the request to access records.

This log includes the name, agency affiliation, date, and purpose for accessing the records. A log documenting denials for records and partially fulfilled requests should also be maintained.

- 4. Maintain, for public inspection, a current listing of names and positions of employees who have access to personally identifiable information.
- 5. Establish procedures to ensure the confidentiality of personally identifiable information at collection, storage, disclosure, and destruction stages.
- 6. Ensure that, if any education record includes information on more than one student, a parent and/or adult student will only be allowed to inspect, review, or be informed about the record of the student at issue.
- 7. Ensure that each person collecting or using personally identifiable information receives training or instruction regarding the policies and procedures governing confidentiality. All staff members, even those who do not have access to special education records, should be informed about what is considered appropriate and inappropriate access to and use of information within the records. The district may maintain a record of the training provided—including the name of the person or persons providing the training, dates of the training, those attending, and the subjects covered—for the purpose of documenting that new staff members have been trained as soon as possible after they have been hired.

C. Access to Records

The district shall:

- 1. Annually notify the parents of all students, including students with disabilities currently in attendance, of their rights under FERPA. The notice shall include all of the following:
 - a. procedures for exercising the right to inspect and review education records;
 - b. procedures for requesting amendment of records; and
 - c. a specification of criteria for determining who constitutes a school official or employee in the district and what constitutes a legitimate educational interest.
- 2. Permit a parent and/or adult student, or his or her representative, to inspect and review any record relating to educational matters that is collected, maintained, or used by the

district. The district will presume that a custodial or non-custodial parent has the authority to inspect and review a record relating to his or her child unless there are legal documents limiting access to those records under state law. A minor student's address will be deleted from any record if requested in writing by a custodial parent to prohibit a non-custodial parent from learning the address simply by having access to the school records.

The district will make records available to a parent and/or adult student for review:

- a. without delay but no later than 45 days after the request;
- b. before any meeting regarding an IEP;
- c. before a resolution session; and
- d. not less than 5 business days before any due process hearing.

The district should note that test protocols may be part of a student's educational record. Test publishers require districts to maintain the integrity and validity of tests. Parents or others interested in a student's test results are allowed to view the student's responses to test items, but only if the information is shared in the presence of a person qualified to explain the results and meaning of the various items and data contained in the protocol.

3. Upon request, provide a parent and/or adult student with a list of the types of education records the school collects, maintains, or uses and where they are kept.
4. Respond to any reasonable request made by a parent and/or adult student for an explanation and interpretation of a record.
5. Provide a copy of education records if a parent and/or adult student would otherwise be unable to exercise his or her right to inspect and review those records. An education record may include test protocols. Even though it is important that standardized test items are protected from general release so that tests remain usable and valid, FERPA and the IDEA 2004 allow copies in these unique situations. A fee may be charged for the copies, but not to search for or retrieve information. The district will publish a schedule of fees it intends to charge.
6. Always provide a parent and/or adult student a copy of the IEP and any documentation of identification and eligibility.

D. Disclosures Not Requiring Consent

Consent is generally required to disclose personally identifiable information to others. However, consent is not required when:

1. A school official or employee has a legitimate educational interest to access the records.

2. A representative of the Federal Comptroller General, the United States Department of Education, or the State Department of Education (SDE) accesses records necessary for an audit or evaluation of a federal program or for enforcement or compliance with federal regulations.
3. A student transfers to another school or school system in which the student intends to enroll unless a district has adopted a procedure requiring consent. However, the parent and/or adult student should be notified of the request for records at the last known address of the parent and/or adult student unless he or she initiated the request.
4. The health and safety of the student or other individuals is in jeopardy because of an emergency.
5. The disclosure concerns the juvenile justice system's ability to effectively serve the student or the ability to respond to court orders or subpoenas, as specified in state law. The district will make a reasonable effort to notify the parent of the court order in advance of compliance, unless the subpoena specifically states that it is not to be disclosed.
6. An organization conducts studies on behalf of education agencies or institutions under specified FERPA criteria.
7. The disclosure is in connection with an application for financial aid and is necessary to determine eligibility for the aid, the amount of the aid, conditions for the aid, or to enforce the terms and conditions of the aid ("financial aid" means a payment of funds to an individual that is conditioned on the individual's attendance at an education agency or institution).
8. The district has designated information as "directory information" under the conditions in FERPA.

E. Destruction of Records

The district will maintain education records, including eligibility documentation and IEPs, for at least 5 years after disenrollment from the district to demonstrate fiscal accountability and program compliance with the IDEA 2004 requirements. The district shall inform a parent and/or adult student when personally identifiable information collected, maintained, or used is to be destroyed because the information is no longer needed to provide educational services to the student.

The parent and/or adult student must be informed of the personally identifiable information that the district intends to destroy and that the information will be destroyed no earlier than 45 calendar days from the date of the notice. The parent and/or adult student must also be informed of the procedure to follow if he or she wishes to formally object to the destruction of the information and wants the records sent to him or her.

Written records of individual students are confidential and shall be shredded or burned under supervision of the staff member responsible for the records if not released to the parent and/or adult student. The records manager should maintain a log that documents the date of destruction or release of records.

A permanent record of the student's name, address, phone number, grades, classes attended, immunization records, test scores, attendance record, grade level, and year completed may be maintained by the district without a time limitation. Any other personally identifiable information shall be destroyed at the request of the parent and/or adult student if it is older than 5 years and no longer needed to provide special education. When informing the parent and/or adult student of his or her rights, the district should remind the parent and/or adult student that the records might be needed for Social Security benefits or other purposes in the future.

F. Request for Amendment of Records

A parent and/or adult student may request that the district amend the student's records if he or she believes that information collected, maintained, or used in the education record is inaccurate, misleading, or in violation of the privacy or other rights of the student. The district will use the following procedure:

1. The district, within a reasonable period of time—not to exceed 45 days of receipt of the request—must decide whether to amend the record. If the district refuses to amend the record, the parent and/or adult student must be informed of the refusal and be advised of the right to and procedure for requesting a district hearing. A district hearing is an informal hearing that does not have all the requirements of a due process hearing.
2. If a district hearing is requested and the district decides that the information is inaccurate, misleading, or in violation of the student's rights, the district shall amend the record and inform the parent and/or adult student in writing.
3. If a district hearing is requested and the district decides the information is accurate and does not violate the student's rights, the district shall inform the parent and/or adult student that he or she may place a statement in the record. This statement may comment on the information in the record or set forth the parent's/adult student's reasons for disagreeing with the district. Any statement placed with a record must accompany the record for as long as the district maintains the record. If the district discloses the record to any person, the district shall also disclose the statement.

G. District Hearings on Procedures for Records

If a parent and/or adult student requests a district hearing on a proposed amendment of education records, the district will follow these procedures:

1. The district hearing will be held within a reasonable amount of time after receiving the request. The district will give the parent and/or adult student notice of the date, time, and place reasonably in advance of the hearing.
2. The district's hearing will be conducted by an employee of the district or other individual who does not have a direct interest in the outcome of the hearing. The district will give the parent and/or adult student a full and fair opportunity to present evidence relevant to the issues raised. The parent and/or adult student may, at his or her own expense, be assisted or represented by one or more individuals of his or her own choice, including an attorney.
3. The district will make its decision in writing within a reasonable period of time after the hearing. The decision shall be based solely on the evidence presented at the district's hearing and shall include a summary of the evidence and the reasons for the decision.

H. Students' Rights

When special education rights transfer to a student under the IDEA 2004 and Idaho Code, the FERPA rights regarding education records also transfer to the student. The district shall inform the adult student and the parent that both the IDEA 2004 and FERPA rights regarding education records transfer.

Section 6. Independent Educational Evaluations

A. Definition

An independent educational evaluation (IEE) means one or more individual assessments, each completed by a qualified examiner who is not employed by the district responsible for the education of the student in question.

B. Right to an IEE

1. A parent and/or adult student has the right to obtain an IEE at public expense if he or she disagrees with an evaluation obtained or conducted by the district. The parent and/or adult student is entitled to only one IEE at public expense for each district evaluation.
2. The parent and/or adult student has the right to an IEE at his or her own expense at any time, and the IEP team shall consider the results.
3. The parent and/or adult student is not automatically entitled to have additional assessments beyond those determined necessary for an evaluation. However, if the parent and/or adult student is interested in additional or different assessments and the district refuses to provide them, he or she may pursue additional assessments through a due process hearing request. In addition, the district may initiate a due process hearing,

without undue delay, to determine if the evaluation it conducted is appropriate. If the final decision of a hearing officer, or a court of law's decision on an appeal, is that the evaluation conducted by the district was appropriate, the parent and/or adult student still has the right to an IEE but at his or her own expense.

4. A hearing officer may order an IEE at public expense if he or she determines that the evaluation conducted by the district was not appropriate.

C. Procedures for Requesting an IEE

If a parent and/or adult student requests an IEE at public expense, the district may ask why he or she disagrees with the evaluation obtained by the district, but the district cannot require an explanation. The district shall give the parent and/or adult student the criteria under which an IEE can be obtained. The district's IEE criteria shall include the following information:

1. the location for the evaluation;
2. the required qualifications of the examiner;
3. the eligibility requirements for the specific disability categories; and
4. reasonable cost containment criteria applicable to personnel for specified assessments to eliminate unreasonably excessive fees.

Except for the criteria listed above, the district may not impose other conditions or timelines if doing so would be inconsistent with the parent's/adult student's right to an IEE. Upon request, a list of qualified examiners who can conduct an IEE will be provided.

A parent and/or adult student may request an opportunity to demonstrate that unique circumstances justify an IEE that does not fall within the district's cost criteria. If an IEE that falls outside the district's cost criteria is justified, that IEE will be publicly funded.

D. District Responsibilities Following IEE Requests

1. If a parent and/or adult student requests an IEE at public expense, the district shall do one of the following without unnecessary delay:
 - a. Provide the district's IEE criteria and information about where an IEE may be obtained.
 - b. Offer SDE mediation to try to resolve differences.
 - c. Request a due process hearing to show that the district's evaluation is appropriate. If the final hearing decision is that the district's evaluation is appropriate, the parent and/or adult student may pursue an IEE, but at his or her own expense.

2. If a parent and/or adult student asks the district to pay for an IEE that has already been obtained, the district shall pay for the IEE if it meets the criteria for publicly funded IEEs. If the district believes that its evaluation was appropriate but agrees to pay for the IEE, the district should state this in writing within the same document in which it agrees to pay. The district can also request mediation.

E. Consideration of the IEE Results

If a parent and/or adult student obtains an IEE and makes that evaluation available to the district, the results must be considered by the district in any decision made with respect to the provision of FAPE. The results may also be presented as evidence at a hearing regarding the student. This is true regardless of whether the IEE is at the expense of the parent and/or adult student or district.

The results of an IEE cannot be the sole determining factor for eligibility. The evaluation team has the responsibility to use existing evaluation data in addition to the IEE to determine whether a student has or continues to have a disability under the IDEA 2004.

2. The IEP team determines the extent to which services are needed so as to enable the child to continue to participate in the general education curriculum although in another setting and to progress towards meeting IEP goals;
3. Conduct a manifestation determination immediately, if possible, but not later than 10 school days after the date on which the decision to take the disciplinary action is made.

C. FAPE Requirements in an IAES

If the student's placement will change to an IAES, the IEP team shall select an IAES that enables the student to:

1. Continue to participate in the general education curriculum;
2. Progress toward meeting the goals set out in his or her IEP; and
3. Receive, as appropriate, an FBA and behavioral intervention services to address the behavior violation so that it does not recur.

D. Transportation

If the IEP team determines that special transportation is required and documents it on the IEP, all procedural safeguards under the IDEA 2004 shall be afforded to the student in matters concerning transportation. Whether a suspension from the bus counts as a suspension from school depends on whether bus transportation is identified on the IEP:

1. If bus transportation is on the IEP, a suspension from the bus would be treated as a suspension from school (unless the district provides transportation services in some other way, such as "transportation in lieu of") because transportation is necessary for the student to obtain access to the location where all other services will be delivered.
2. If bus transportation is not on the IEP, a suspension from the bus would not be counted as suspension from school. In these cases, the student and the parent would have the same obligation to get to and from school as a student without a disability who had been suspended from the bus.

If the student's behavior on the bus results in a suspension from the bus, the IEP team shall consider whether the behavior should be addressed in a BIP

Section 4. Procedures for a Manifestation Determination

A manifestation determination by the parent and relevant IEP team members (as determined by the district and parents) involves a review of the relationship between the student's disability and the behavior subject to disciplinary action.

A. Actions Involving a Manifestation Determination

When a disciplinary action results in a change of placement, the district will take the following actions:

1. The parent and/or adult student will be notified of the disciplinary action and provided with a copy of the *Procedural Safeguards Notice* not later than the date on which the decision to take disciplinary action is made.
2. A meeting will be held immediately, if possible, but no later than 10 school days after the date on which the decision to take disciplinary action is made. This meeting will include the district, the parent and/or adult student, and other relevant members of the IEP team (as determined by the parent and the district). The purpose of the meeting is to review all relevant information in the student's file including:
 - a. The student's IEP; and
 - b. Any teacher observations; and
 - c. Any relevant information provided by the parent and/or adult student.
3. Based on a review of the information, the IEP team, (relevant members determined by the parent and the district) will determine if the conduct in question was:
 - a. Caused by or had a direct and substantial relationship to the student's disability; or
 - b. The direct result of the district's failure to implement the IEP. [If so, the deficiencies must be immediately remedied.]

If the IEP team, (relevant members determined by the parent and the district), finds that either a or b above is true, the student's behavior will be determined to be a manifestation of his or her disability.

B. When Behavior Is a Manifestation of the Disability

If a student's behavior is determined to be a manifestation of his or her disability, the IEP team, (relevant members determined by the parent and the district), will:

1. Conduct an FBA and implement a BIP for the student if the district had not conducted such an assessment prior to the behavior that resulted in a change in placement;
2. Review the BIP if one had previously been developed and modify it as necessary to address the behavior;

3. Return the student to the placement from which he or she was removed, unless the parent and district agree in writing to a change of placement as part of the modification of the BIP.

C. When Behavior Is Not a Manifestation of Disability

If the IEP team, (relevant members determined by the parent and the district), determines that the student's behavior was not a manifestation of his or her disability, the same disciplinary procedures applicable to students without disabilities, including long-term suspension or expulsion, may be applied to the student with a disability. The district will forward special education and disciplinary records for consideration to the board of trustees, which makes the final decision regarding the disciplinary action.

Even if the disciplinary action is to suspend or expel, the following provisions shall be met:

1. Educational services cannot cease for more than 10 school days in a school year. Educational services shall be provided to the extent necessary to allow the student with a disability access to the general education curriculum and the opportunity to advance toward achieving the goals set out in his or her IEP.
2. An IEP team shall convene to develop an IEP that specifies what special education and related services will be provided during the period of suspension or expulsion.

Section 5. Other Considerations

A. Request for an Expedited Hearing

An expedited hearing is a hearing that occurs within 20 school days of the request with a decision rendered within 10 school days of the hearing.

1. The parent and/or adult student may request an expedited due process hearing if he or she:
 - a. Disagrees with the determination that the behavior was not a manifestation of the student's disability;
 - b. Disagrees with any decision of the IEP team regarding a change of placement during a disciplinary proceeding; or
 - c. Disagrees with the decision regarding the student's placement in an IAES.
2. The district may request an expedited hearing if it believes that maintaining the current placement is substantially likely to result in injury to the student or to others.

3. When an appeal of a disciplinary action is requested (either by the parent to challenge the action or by the district to seek removal to an interim setting), the student remains in the IAES pending the decision of the hearing officer or the expiration of the disciplinary placement term, whichever occurs first unless the parent and district agree otherwise.
4. Resolution meeting requirements apply but are shortened to 15 and 7 days. No challenge for sufficiency of request is available.
5. A decision of a hearing officer in an expedited hearing may be appealed to federal or state district court.

See Chapter 13, Sections 4 and 5, for an explanation of regular and expedited due process hearing rights and procedures.

B. Protections for Students Not Yet Eligible for Special Education

A student who has not been determined eligible for special education and who has violated any rule or code of conduct of the district may assert the protections of the IDEA 2004 *if* the district had knowledge that the student was a student with a disability before the behavior that precipitated the disciplinary action.

1. Basis of knowledge

With limited exceptions, which are described in item 2 below, the district will be deemed to have knowledge that an individual is a student with a disability if one or more of the following is true:

- a. The parent and/or adult student has expressed concern to supervisory or administrative district personnel or a teacher of the child that the student is in need of special education and related services. The concern must be expressed in writing unless the parent and/or adult student is unable to write or has a disability that prevents a written statement.
- b. The parent and/or adult student has requested that the student be evaluated for special education.
- c. The student's teacher or other district personnel have expressed specific concerns about a pattern of behavior demonstrated by the student directly to the director of special education or to other district supervisory personnel in accordance with the district's established Child Find system or special education referral system.

2. No basis of knowledge

The district will be deemed not to have knowledge that an individual is a student with a disability if one or more of the following is true:

- a. An evaluation was conducted and a determination was made that the student did not have a disability.
- b. The parent and/or adult student did not give written consent for an evaluation.
- c. The parent and/or adult student refused special education services.

If the district did not have a basis of knowledge that a student was a student with a disability prior to taking disciplinary measures, the student is subjected to the same disciplinary measures applied to all other students who engage in comparable behaviors.

C. Parent and/or adult student Request for Evaluation of a Disciplined Student

If a request for an evaluation of a student who is not currently eligible for special education is made during the period in which the student is subject to disciplinary measures, the evaluation will be conducted in an expedited manner. Pending the results of the evaluation, the student will remain in the educational placement determined by district officials, which can include suspension or expulsion without educational services.

1. If the student is subsequently determined eligible for special education, the district will:
 - a. Convene an IEP team meeting to develop an IEP.
 - b. Conduct a manifestation determination.
 - (1) If the behavior is caused by or had a substantial relationship to the student's disability, the disciplinary action must be set aside, and the student must be provided appropriate educational services in the least restrictive environment (LRE).
 - (2) If the behavior is not caused by nor had a substantial relationship to the student's disability, the student is subject to the disciplinary placement that had been determined, but he or she is still entitled to receive FAPE, which is determined by the IEP team. Educational services cannot cease for more than 10 school days in a school year. Educational services shall be provided to the extent necessary to allow the student with a disability access to the general education curriculum and the opportunity to advance toward achieving the goals set out in his or her IEP.
2. If the evaluation team determines that the student is not eligible for special education, he or she will be subject to the same disciplinary actions as all other students.

D. Referrals to and Action by Law Enforcement and Judicial Authorities

1. The district may report a crime committed by a student with a disability to appropriate authorities. The IDEA 2004 does not prevent state law enforcement or judicial authorities from exercising their responsibilities, with regard to the application of federal and state law, for crimes committed by a student with a disability.
2. If a student brings a firearm to school, law enforcement shall be contacted pursuant to the Gun-Free Schools Act.
3. If the district reports a crime, it will ensure that copies of the special education and disciplinary records of the student are given to the appropriate law enforcement authorities for their consideration, to the extent the release of records is permitted by the Family Educational Rights and Privacy Act (FERPA). Generally, the release of records requires consent, but exceptions are listed in Chapter 11, Section 5.

E. Transfer of Discipline Records

Idaho Code 33-209 requires that whenever a student transfers to a new school and a school record contains information concerning violent or disruptive behavior or disciplinary action involving the student, this information will be included in the transfer of records to the new school. The transmission of the student's record shall include both the student's current IEP, including the FBA, BIP, and any current or previous disciplinary action taken. This information will be contained in a sealed envelope marked to indicate the confidential nature of the contents and addressed to the principal or other administrative officer of the school.

When the district initiates disciplinary proceedings applicable to all students, the special education and disciplinary records of students with disabilities shall be given to authorized district personnel for their consideration in making the final determination regarding the disciplinary action.

Chapter 13

DISPUTE RESOLUTION

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Section 1. IEP Facilitation

A request for IEP facilitation may be made by the parent and/or adult student or by a district representative, such as a director of special education. Requests may be made in writing or by phone to the SDE Dispute Resolution Coordinator as directed in the Introduction to this chapter.

A. Definition

IEP facilitation is a voluntary process during which an SDE-contracted individual is appointed to facilitate an IEP team meeting. The role of the facilitator is to help team members communicate more effectively and efficiently. IEP facilitation supports early dispute resolution, providing assistance to the IEP team before a potential conflict develops into a more serious dispute. The facilitator is an impartial third party, not a member of the IEP team, and has no stake in decisions made by the team. All IEP facilitators have received specialized training provided by the SDE. Facilitators are selected on a rotational and/or geographical basis.

The SDE provides IEP facilitation at no charge to the district or the parent and/or adult student.

B. IEP Facilitation Requests

A request for IEP facilitation may be made by either a parent and/or adult student or a designated district representative, such as a special education director, who has the authority to allocate resources and has knowledge of special education. A request for IEP facilitation:

1. may concern an initial, annual, or amended IEP that may be considered too difficult to manage; and
2. should be made at least two weeks prior to the scheduled IEP meeting.

The SDE will consider IEP facilitation requests on a case-by-case basis. As part of this consideration, the SDE Dispute Resolution Coordinator will contact the other party to determine whether that party is willing to participate; both parties shall agree to IEP facilitation for the process to go forward.

Section 2. Mediation

The SDE has developed a mediation system to help resolve disagreements between districts and parents/adult students regarding the identification, evaluation, educational placement, and the provision of a free appropriate public education (FAPE). A request for mediation may be made by either the parent and/or adult student or the district at any point without the necessity to request a due process hearing. Requests may be made in writing or by phone to the SDE Dispute Resolution Coordinator as directed in the introduction to this chapter.

The ultimate goal of mediation is to obtain a written agreement that is acceptable to both parties. Even if a written agreement is not achieved, mediation may be helpful in clarifying issues.

A. Definition of Mediation

Mediation is a structured, voluntary, informal process in which an impartial third party (a mediator) assists parents/adult students and district personnel resolve disputes. Mediation builds positive working relationships, encourages mutual understanding, and helps the parties focus on their common interest—the student. The district will not use the term “mediation” to refer to any district-level process for resolving disputes.

The Special Education Mediation Process Is:

Voluntary for parents and school personnel;

Offered when disputes arise, including, but not limited to, formal complaints and due process hearing requests;

Confidential, thus encouraging all participants to speak freely;

A **No-Cost Service** to parents and schools provided by the Idaho State Department of Education (SDE); and

An **Alternative** that does not delay the status of a due process hearing or formal complaint.

B. Mediation Policies

1. No video or audio recording of the mediation proceedings will be made.
2. Each party is limited to no more than three participants and shall designate a person who has the authority to make final resolution decisions.
3. The district shall have at least one representative present who has the authority to commit resources.
4. Because mediation is a non adversarial process that offers the parties the opportunity to communicate directly with each other, legal representation during a mediation session is strongly discouraged.
5. Except for the signed agreement, confidentiality pledge, and mediator evaluation forms, all notes or records taken during the proceedings will be collected and destroyed by the mediator at the conclusion of the mediation session.
7. The mediator will provide signed copies of the agreement to each party and the SDE.

8. The mediator will be excluded from subsequent actions—complaint investigations, due process hearings, and legal proceedings.
9. A due process hearing requested prior to mediation may be canceled by the requesting party.
10. If for any reason the mediation fails, the mediator will provide each party and the SDE with a statement certifying that the mediation was unsuccessful.
11. Either party has the option to make another request for mediation.

C. Mediation System

Mediation offered by the SDE is voluntary, confidential, and at no cost to the parent and/or adult student or district.

1. Both the district and the parent and/or adult student may request mediation at any time.
2. The SDE has the discretion to suggest mediation to either party at any time it deems appropriate, but is required to make mediation available to the parties after a formal complaint or a request for a due process hearing has been filed.

Following a request for mediation, the SDE will contact the other party and ask whether they are willing to participate in mediation. Mediation may not be used to deny or delay the right to a due process hearing or any other rights afforded to students and parents.

D. SDE Contracted Mediators

Idaho SDE **contracted** mediators are impartial and trained in effective mediation, communication, negotiation, and problem-solving skills, and in laws and regulations relating to the provision of special education and related services. A mediator assists the parent and/or adult student and the district in resolving disputes. The SDE will select the mediator on a random, rotational, or other impartial basis from a list of highly qualified mediators. At times, the SDE may appoint two individuals to serve as co-mediators.

1. In all cases a mediator shall not:
 - a. be an employee of the SDE or district involved in the dispute;
 - b. have children enrolled in the district involved in the dispute; or
 - c. have a personal or professional interest that conflicts with the person's objectivity.
2. Additionally, if the parties have agreed to mediation following a due process hearing requested:

- a. co-mediators may not be used; and
 - b. the mediator may not be an employee of any district or state agency providing services that are publicly funded under the IDEA 2004, Part B.
3. The mediator:
- a. Contacts the parties to explain the mediation process, identify issues, and help the parties establish a date, time, and place to hold the mediation.
 - b. Establishes the ground rules for all parties to follow.
 - c. Guides the process.
 - d. Encourages open and honest communication.
 - e. Ensures that each party is heard.
 - f. Rephrases information and summarizes issues.
 - g. Facilitates the writing of the agreement.

E. Mediation Timelines

The SDE will appoint a mediator within 3 business days of a request for mediation. The mediation will be held in a location convenient to the parties involved, and every effort will be made to complete the process within 21 calendar days.

F. Confidentiality

Discussions that occur during the SDE mediation process are confidential and cannot be used as evidence in any subsequent due process hearing or civil proceeding. The parties in the SDE mediation process will be required to sign a confidentiality pledge before mediation begins.

G. Mediation Agreement

An agreement reached by the parties through SDE mediation shall be set forth in writing and is enforceable in state and federal courts.

Section 3. Formal Complaints

A formal complaint may be filed with the SDE by any individual or organization from Idaho or another state who believes the district or other education agency has violated a requirement of Part B of the IDEA 2004, including the alleged failure to comply with a due process hearing decision rendered. The SDE will accept a complaint received by mail, fax or hand delivery. A

complaint filed by email will not be accepted. Contact information is listed in the introductory paragraph to this chapter.

See the document section at the end of this chapter for “Procedures for Resolving Complaints.”

A. Filing Complaints

A formal complaint can be made by any person or organization. The complaint shall be in writing and include the following information:

1. current date;
2. the name, address, and telephone number of the person making the complaint (or available contact information);
3. the signature of the person making the complaint;
4. if alleging violations regarding a specific student, the name and address of the student involved (or available contact information in the case of a homelessness student or family);
5. the school and district or other education agency that is the subject of the complaint;
6. one or more statements (allegations) that the district has violated one or more requirements of Part B of the IDEA 2004;
7. the facts and/or a description of the events that support each allegation; and
8. proposed resolution of the problem or the relief sought.

The complaint shall allege a violation that occurred not more than one year prior to the date that the complaint is received. The SDE has a form available that may be used.

B. SDE Complaint Procedures

Upon receipt of a written complaint, the SDE will do the following:

1. Determine whether the complaint meets all of the required criteria. The SDE will notify the complainant if his or her submission is sufficient as listed in Section A, above.
2. Notify the district that a complaint has been received and offer both parties SDE mediation. Parents shall receive a copy of the Procedural Rights statement.
3. Set aside all or any part of the written complaint that is being addressed in a due process hearing until the conclusion of the hearing. Any issue that is not a part of the due process action will be resolved using the SDE complaint procedures and timelines. If a

hearing officer's decisions are not adequately addressed by the district, the SDE will investigate.

4. Give the complainant the opportunity to provide additional information about the allegations, either orally or in writing.
5. Resolve the complaint and issue a Final Report that includes the findings of fact, conclusions, and resolution for each allegation within 60 calendar days of receipt of the complaint. This time period may be extended, but only under exceptional circumstances, which shall be documented by the SDE. The resolution will state:
 - a. how to remedy any denial of services, which may include the award of compensatory services, monetary reimbursement or other corrective action as appropriate to the needs of the student; and
 - b. the future provision of services for a student with a disability, if such clarification is needed.
6. Ensure the district takes corrective action if it is determined that the district was out of compliance.

C. Methods of Resolving Complaints

The SDE will make every effort to resolve complaints in the least adversarial manner possible. Mediation will be offered to the disputing parties. If mediation is not accepted by the parties or fails to resolve the allegation(s), then resolution of a formal complaint may be achieved through one or more of the following four processes:

1. **Verification of resolution:** Upon receipt of the initial complaint from the SDE outlining the allegations, the district may submit information to the SDE to document that one or more of the allegations of the complaint have been resolved. The SDE may also receive similar information from other sources.
2. **Corrective action plan (CAP):** The district may propose a CAP to address the allegations in the complaint. The SDE may accept, reject, or negotiate the proposed CAP or require other corrective actions or timelines to ensure the district will achieve compliance for each allegation stated in the complaint. If this process is not successful, the SDE will conduct a full investigation.
3. **Early complaint resolution (ECR):** The SDE may propose the use of ECR to resolve the complaint. This approach, which shall be mutually agreed upon, provides the complainant and the district an opportunity to immediately resolve the issues prompting the complaint, even though the parties may not agree on particular allegations. The SDE Dispute Resolution Coordinator or an SDE-contracted complaint investigator will facilitate a resolution through the development of a written agreement to be signed by both parties. If this process is not successful the SDE will conduct a full investigation.

4. **Full investigation:** If necessary, the SDE will investigate the complaint by conducting interviews and reviewing files, correspondence, and other information. An on-site investigation may occur if necessary. The SDE will write a Final Report, including Findings of Fact, Conclusions, and identify appropriate Corrective Actions, if required.

Section 4. Due Process Hearings

A request for a due process hearing may be made by either a parent and/or adult student or the district.

A parent and/or adult student or district may file a request for hearing with the other party. The request shall be mailed, faxed, or hand delivered. When the request is filed with the district, the parent and/or adult student shall send copies to the Dispute Resolution Coordinator at the SDE.

All applicable timelines for due process hearing and resolution sessions will start when the request has been filed with the other party and the SDE.

A. Definition

Idaho's due process system has two types of hearings, a regular due process hearing and an expedited due process hearing:

1. A regular due process hearing is an administrative hearing to resolve disputes on any matter related to the identification, evaluation, educational placement, and the provision of FAPE.
2. An expedited due process hearing is as an administrative hearing to resolve disputes concerning discipline occurring within 20 school days of the request, with a decision rendered within 10 school days of the hearing.

B. Due Process Hearing Request from Parent and/or adult Student

A due process hearing may be requested on behalf of a student by a parent, adult student or by an attorney representing the student.

1. A due process hearing shall be initiated within two years of the date the parent and/or adult student knew or should have known of the dispute. The two-year timeline will not apply if the parent and/or adult student was prevented from requesting a hearing due to misrepresentations or the withholding of information by the district.
2. A due process hearing can be initiated regarding issues pertaining to identification, evaluation, educational placement, or the provision of FAPE if:
 - a. the district proposes to initiate or change any of these matters; or

- b. the district refuses the parent's and/or adult student's request to initiate or change any of these matters.

See the Documents Section of this chapter for a *Due Process Hearing Request* form. The parent and/or adult student, or his or her attorney filing a due process hearing request shall forward a copy to the SDE and the district. The SDE will provide reasonable accommodations to individuals who need assistance in filing a written request.

C. Due Process Hearing Request by a District

A district may initiate a due process hearing within two years of the dispute in an attempt to accomplish one or more of the following:

1. override a parent's/adult student's refusal of consent for an initial evaluation or the release of information;
2. override a parent's/adult student's written objection to an IEP change, an educational placement change, or disciplinary actions when there is an imminent threat to safety;
3. ask a hearing officer to place a student in an interim alternate education setting (IAES) when there is substantial evidence that maintaining the current educational placement is likely to result in injury to the student or others; or
4. request that a hearing officer determine whether an evaluation conducted by the district was appropriate or whether an evaluation obtained by a parent and/or adult student meets the criteria for a publicly funded independent educational evaluation (IEE).

If the district initiates a hearing, the district will inform the parent and/or adult student and the SDE.

D. Contents of a Request for a Due Process Hearing

A request for a due process hearing shall be made in writing and shall include the following information:

1. the current date;—
2. the student's name, address (or available contact information in the case of a homeless student), and school district;
3. the signature of the individual make the request for a due process hearing;
4. a description of the nature of the problem, including supporting facts; and
5. a proposed resolution of the problem or the relief sought.

E. Actions for Due Process Hearings**1. A Due Process Request Is Filed**

- a. A request may be filed by either party.
- b. Either party may challenge the sufficiency of the due process hearing request within 15 days of the receipt of the hearing request. The hearing officer shall render a decision regarding the sufficiency within five calendar days and immediately notify the parties of the decision in writing.
- c. The district superintendent has the responsibility for informing the district's board of trustees of any request for a hearing.
- d. The district shall inform a parent and/or adult student of any free or low-cost legal or other relevant services available to him or her and provide a copy of the Procedural Safeguards if a due process hearing is requested or if the parent and/or adult student requests such information.

2. A Hearing Officer Is Assigned

- a. Within 10 calendar days of a request for a hearing, an impartial hearing officer will be assigned by the SDE. The SDE maintains a list of trained hearing officers, along with their qualifications, and assignments are made on a rotational basis.
- b. A hearing officer may not be an employee of the district or the SDE, an individual having any personal or professional interest that would conflict with his or her objectivity in the hearing, or a member of the board of trustees of the district.
- c. The district will pay for all actual expenses incurred by the hearing officer and for the cost of a verbatim transcript of the hearing. The hearing officer will be compensated at rates set by the SDE.

3. SDE Mediation Is Offered

The SDE is required to offer mediation as an alternative dispute resolution mechanism to the involved parties.

3. Response to a Due Process Request

- a. The other party shall file a response with 10 calendar days addressing the issues raised.
- b. If the district has not sent a written notice to the parent and/or adult student regarding the subject matter contained in the due process request, the district will,

within 10 calendar days of receiving the request, send the parent and/or adult student a response that includes all the components of written notice.

- c. Either party may amend the request, upon obtaining written consent from the other party or as granted by the hearing officer, at least 5 calendar days prior to the hearing. If the request is amended, timelines for resolution and resolving the issues begin again as of the date of the amended request.

5. Pre-hearing Resolution Session

- a. A resolution session will be held within 15 calendar days of a request for a due process hearing unless: (the IDEA 2004 requires the resolution session only if the parent has requested the due process hearing. Some states, through state regulations, are expanding this also to hearing requests initiated by the district.)
 - (1) Both parties agree in writing to waive the resolution meeting.
 - (2) Both parties agree to go to mediation.
- b. A “resolution team” includes the parent and/or adult student, a representative of the district who has decision-making authority, and relevant members of the IEP team who have specific knowledge of the facts identified in the request for a due process hearing as determined by the parties. The district’s attorney will not attend the resolution session unless the parent and/or adult student will be accompanied by an attorney. Note: The SDE will offer the services of a facilitator with the approval of both parties.
- c. The purpose of the meeting is for the parent of the student to discuss the due process hearing request, and the facts that form the basis of the request, so that the district has the opportunity to resolve the dispute.
- d. If a resolution is reached regarding the issues raised in the request for a due process hearing, the district representative and parent and/or adult student will sign a legally binding document that is enforceable in state and federal court. Either party may void this agreement within 3 business days of signing the agreement.
- e. A due process hearing will be scheduled if no resolution is reached within 30 calendar days of receiving the request for a due process hearing.
- f. If the district is unable to obtain the participation of the parents after reasonable efforts have been made and documented, at the conclusion of the 30 calendar day period, the district may request that the hearing officer dismiss the parents due process hearing request.

- g. A parent may request an immediate due process hearing from the hearing officer if the district has not scheduled or participated in a resolution session within 15 days of the request.

The 45 day timeline for the due process hearing request starts the day after one of the following events:

- a. Both parties agree in writing to waive the resolution meeting;
- b. After either the mediation or resolution meeting starts but before the end of the 30 day period, the parties agree in writing that no agreement is possible;
- c. If both parties agree in writing to continue the mediation at the end of the 30 day resolution period, but later, the parent or public agency withdraws from the mediation process.

6. Hearing Preparation

- a. A parent and/or adult student will be allowed to inspect and review reports, files, and records pertaining to the student not less than 5 business days prior to a due process hearing. A district may charge a fee for copies of records if the fee does not effectively prevent a parent and/or adult student from exercising his or her right to inspect and review those records. The district may not charge a fee to search for or retrieve records.
- b. Not less than 5 business days prior to a due process hearing, each party will disclose to all other parties:
 - (1) Evaluations completed by that date; and
 - (2) Recommendations based on those evaluations intended to be used at the hearing.
 - (3) Copies of exhibits which will be introduced and a list of witnesses each party intends to call at the hearing.
- c. The hearing officer will provide notification as to the time and place of the due process hearing to the parent and/or adult student, district officials, and the SDE. The hearing shall be conducted at a time and place reasonably convenient to the parent and/or adult student.

7. The Due Process Hearing

- a. The hearing officer will preside over and conduct the proceedings in a fair and impartial manner, permitting all parties an opportunity to present their information

and opinions pursuant to the Idaho Administrative Procedure Act (IDAPA) and IDEA 2004 requirements.

- b. A parent and/or adult student and district personnel may be accompanied and advised by legal counsel and other persons with special knowledge or training about students with disabilities.
- c. A parent and/or adult student has the right to open the hearing to the public and to have the student who is the subject of the hearing present.
- d. Only a parent and/or adult student, a district, and their respective attorneys have the right to present evidence, to compel the attendance of witnesses and the production of documents, and to confront and cross examine witnesses.
- e. New issues (issues not in the original due process request) may not be raised at the hearing unless agreed to by the other party. Any party may, however, prohibit the introduction of any evidence at the hearing that was disclosed less than 5 business days before the hearing.
- f. During the hearing the district will provide reasonable accommodations as required by federal regulations. Disputes will be referred to the SDE for resolution.
- g. A record of the hearing will be made. The record will be a written verbatim transcript. The parent and/or adult student may choose an electronic verbatim record. The district will pay the transcript costs, and a copy of the transcript will remain with the SDE. The parent and/or adult student and district personnel have the right to obtain a copy of the record upon formal request.

8. Decision of the Hearing Officer

- a. The decision of the hearing officer will be based solely on presentations made at the due process hearing.
- b. The decision made by the hearing officer will be made on substantive grounds based on a determination of whether a student received FAPE.
 - (1) In matters alleging a procedural violation, a hearing officer may find that a student did not receive FAPE only if the procedural inadequacies:
 - (a) impeded the student's right to FAPE;
 - (b) significantly impeded a parent's/adult student's opportunity to participate in the decision-making process; or
 - (c) caused a deprivation of educational benefit.

- (2) A hearing officer may order a district to comply with procedural requirements, regardless of whether a district's failure in this area did or did not result in a denial of FAPE.
- c. The decision will include findings of fact and conclusions of law.
- d. The hearing officer's written decision shall be available within 45 calendar days from the date of the request for a hearing. The 45-calendar-day timeframe begins when the written request is actually received by the district or the SDE, whichever is earlier.
- e. The findings of fact and decision shall be sent to the parent and/or adult student at no cost. Copies will also be mailed to the district superintendent, the SDE, and representatives of the district.
- f. After deleting personally identifiable information, the SDE will transmit the decision to the Special Education Advisory Panel (SEAP) and make the decision available to the public upon request.
- g. A hearing officer's decision will be enforceable in state and federal court. It will be implemented not later than 14 calendar days from the date of issuance unless:
 - (1) the decision specifies a different implementation date; or
 - (2) either party appeals the decision by initiating civil action in state or federal district court.
- h. Nothing in the section can be interpreted to prevent a parent from filing a separate due process hearing request on an issue separate from the request already filed. The SDE may consolidate multiple hearing requests involving the same IEP.
- i. Stay Put
 - (1) During the pendency of any due process hearing, the student shall remain, or "stay put," in his or her current educational placement unless the district and parent and/or adult student agree otherwise.
 - (2) The stay-put placement continues during any subsequent appeals unless a hearing officer agrees with a parent and/or adult student that a change of placement is appropriate, in which case, the placement identified in the hearing officer's decision becomes the stay-put placement.
 - (3) If the dispute involves an application for initial admission to public school in Idaho, the student, with the written consent of his or her parent, shall be placed in the public school program until the proceedings are completed.

- (4) “Stay put” does not apply when a student is transitioning from Part C (the Infant Toddler program) to Part B services in Idaho. Following the development of an IEP or an individual family service plan (IFSP), if an educational placement dispute arises involving a student transitioning from Part C to Part B, the student cannot “stay put” in Part C:
 - (a) With written consent of the parent, the student shall be placed in the public school until completion of all the hearing proceedings.
 - (b) If the parent does not give written consent, the student will not receive services until completion of the hearing proceedings.
 - (c) If the student is eligible for special education and related services, and the parent consents, then the district shall provide those special education and related services which are not in dispute.

Section 5. Expedited Due Process Hearings

A request for an expedited due process hearing may be made by either a parent and/or adult student or the district. The request should be mailed, faxed or hand delivered to the Dispute Resolution Coordinator at the SDE. A request for an expedited due process hearing filed by email will not be accepted. Contact information is listed in the Introduction to this chapter.

A. Definition

An expedited due process hearing is defined as an administrative hearing to resolve disputes concerning discipline occurring within 20 school days of the request, with a decision rendered within 10 school days of the hearing.

B. Expedited Hearing Requests

1. A district may request an expedited hearing if the district believes maintaining the current placement or returning the student to the prior placement is substantially likely to result in injury to the student or others.
2. A parent and/or adult student may request an expedited hearing if:
 - a. he or she disagrees with a determination that the student’s behavior was not a manifestation of the disability; or
 - b. he or she disagrees with the district’s discipline decision, which resulted in a change of placement.

See Section 5D of this chapter for additional information regarding placement during a hearing.

C. The Expedited Hearing Process and Decisions

An expedited hearing will be conducted in a fair and impartial manner. Guidelines and proceedings will be the same as those in a regular due process hearing, except for the following changes:

1. The SDE will appoint a hearing officer within 2 business days of a request.
2. A resolution session shall occur within 7 days of receiving a due process hearing request unless the parties agree in writing to waive the resolution session or go to mediation.
3. A due process hearing may proceed unless the matter has been resolved to the satisfaction of both parties within 15 day of the receipt of the expedited due process hearing request.
4. Any party may prohibit the introduction of any evidence at the hearing that was not disclosed at least 2 business days before the hearing.
5. The hearing shall occur within 20 school days of the request, with a decision rendered within 10 school days of the hearing. A written decision will be mailed to both parties.
6. A party may appeal the decision in an expedited due process hearing in the same way as they may for decisions in other original due process hearings.

D. Placement During an Expedited Hearing

When a hearing has been requested by either the parent and/or adult student or the district regarding placement decisions, the student shall “stay put” during the pendency of the hearing. In relation to disciplinary proceedings, stay put means:

1. The student will remain in the IAES until the timeline for the disciplinary action expires or the hearing officer renders a decision, whichever occurs first.
2. Upon expiration of the IAES placement, the student will be placed in the setting he or she was in prior to the IAES. However, if district personnel maintain that it is dangerous for the student to return to that placement, the district may request an expedited hearing to continue the IAES for up to an additional 45 school days. This procedure may be repeated as necessary.

If the hearing officer finds for the parent and/or adult student, the change of placement cannot occur and the IEP team will need to determine the extent of services that are appropriate to meet the student’s individual needs and to address the student’s behavior. If the hearing officer finds for the district, the district may use the same disciplinary procedures, including expulsion, as it uses for any other student, except that FAPE shall be provided according to the requirements in Chapter 12, Section 3.

Section 6. Appeals and Civil Action

1. An appeal to state or federal court shall be filed within 42 calendar days from the date of issuance of the hearing officer's decision.
2. Either party shall exhaust all dispute resolution procedures available under the IDEA 2004 prior to filing action in civil court. However, nothing in the IDEA 2004 restricts or limits the rights, procedures, and remedies available under the U.S. Constitution, the Americans with Disabilities Act, Section 504 of the Rehabilitation Act, or other Federal laws protecting the rights of children with disabilities. This means either party may have remedies available under these laws that overlap with IDEA 2004. To obtain relief under those other laws, either party shall first use the available dispute resolution procedures under the IDEA 2004 before going directly into court.

Section 7. Attorney Fees

A district court will have jurisdiction in the awarding, determination, or prohibition of attorney fees. The court may:

1. award reasonable attorney fees as part of the costs to the prevailing party; and
2. determine the amount of attorney fees, using prevailing rates in the community in which the action occurred, for the kind and quality of services provided. No bonus or multiplier may be used in calculating the amount of fees awarded.

Funds under Part B of the IDEA 2004 cannot be used by the district to pay any attorney fees or costs of a party related to an action or proceeding, such as deposition, expert witnesses, settlements, and other related costs. However, Part B funds may be used to pay hearing officer fees or the costs of a meeting room to conduct the hearing.

A. Prohibition of Attorney Fees

1. Attorney fees may not be awarded:
 - a. for legal representation at an IEP meeting, including a resolution session, unless such a meeting is convened as a result of a due process hearing or a judicial action; or
 - b. for mediation that is conducted prior to a request for a due process hearing.
2. Attorney fees may not be awarded and related costs may not be reimbursed in any action or proceeding for services performed subsequent to the time of a written offer of settlement to a parent and/or adult student if:

- a. the district makes an offer at least 10 calendar days before a due process hearing or a civil proceeding begins;
- b. the offer is not accepted by the parent and/or adult student within 10 calendar days after it is made; and
- c. a court or due process hearing officer finds that the relief obtained by the parent and/or adult student is not more favorable to the parent and/or adult student than the offer of settlement.

B. Exception to the Prohibition of Attorney Fees

An award of attorney fees and related costs may be made to a parent and/or adult student who is a prevailing party and who was substantially justified in rejecting the district's settlement offer.

C. Reduction in the Amount of Attorney Fees

A court may reduce an award for attorney fees under any of the following circumstances:

1. During the course of the action or proceeding, the parent and/or adult student or his or her attorney unreasonably extended the final resolution.
2. The amount of the award unreasonably exceeds the prevailing rate in the community for similar services by attorneys of reasonably comparable skills, reputation, and experience.
3. The time spent and legal services rendered were excessive considering the nature of the action.
4. The attorney representing the parent and/or adult student did not provide the information required in a due process hearing request.

D. Exception to the Reduction of Attorney Fees

The amount of attorney fees will not be reduced if the court finds that the district or SDE unreasonably extended the final resolution of the action or proceeding.

E. Special Provisions Regarding Attorney Fees

1. A district or SDE that prevails may seek attorney fees from a court against the parent's/adult student's attorney if the action is deemed frivolous, unreasonable, without foundation or prolongs the litigation.
2. A district or SDE that prevails may seek attorney fees from a court against the parent's/adult student's attorney or the parent and/or adult student if the hearing request

was presented for improper purposes such as to harass the district, cause unnecessary delay or needlessly increase the cost of litigation.

Chapter 14 SPECIAL EDUCATION FORMS

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Student's Name:	District ID:	State ID:	Grade:	Sex:
Native Lang:	Ethnicity:	Birth Date:	Age:	
District:		School:		

Dear _____:

We are requesting your permission to assess _____ current educational functioning to determine possible eligibility for special education services. Your written consent is required before an initial assessment can begin. If this is a request for consent for reassessment and the district does not hear from you after reasonable efforts to obtain consent, the district will proceed with the reassessment.

Reasons we would like to conduct this assessment:

Information used to determine the areas to be assessed:

The following options were considered and rejected for these reasons:

Other factors that may affect the assessment, including those identified as special considerations (behavior, limited English proficiency, blind or visual impairment, deaf or hard of hearing, or need for possible assistive technology):

After you have reviewed the information herein, please sign and return the enclosed form titled *Parent/Adult Student Evaluation Response (page 3 of this form)*. The form allows you to give consent or to deny consent for the proposed assessment. Return the form to _____.

Case Manager's Name

Assessments are provided at no cost to you. Assessment procedures may include a review of school records, observation of your student's activities, personal interviews, and consultation with you or others you recommend, along with individual testing as outlined. See attached *Individual Assessment Plan (page 2 of this form)*.

You have protection under the procedural safeguards of the Individuals with Disabilities Education Act (IDEA, 2004). If you need an explanation or a copy of the *Procedural Safeguards Notice**, or if you have any questions, please contact me at _____.

Building or Phone Number

Sincerely,

Note: The signature above verifies that parents who require notice and an explanation of their rights in their language have been accommodated to ensure their understanding.

Individual Assessment Information

Student's Name:	District ID:	State ID:	Grade:	Sex:
Native Lang:	Ethnicity:	Birth Date:	Age:	
District:		School:		

Assessments	Position Responsible	Description of Assessment Procedures
<input type="checkbox"/> Intellectual/Cognitive Functioning		Assesses your student's ability to learn. Administered by a professional in a one-to-one setting.
<input type="checkbox"/> Academic Performance		Measures your student's achievements in such areas as oral expression, listening comprehension, written expression, basic reading skills, reading comprehension, mathematics calculation and mathematical reasoning.
<input type="checkbox"/> Classroom Observation		Collects information on student's performance (academic, social/emotional, etc.) in the classroom environment.
<input type="checkbox"/> Communication (Speech/Language)		Speech Assesses your student's articulation (speech sounds), voice, fluency, and motor skills for speech. Language Assesses your student's receptive and expressive language skills, including phonology, morphology, syntax, semantics, and pragmatics.
<input type="checkbox"/> Motor Development (Fine & Gross)		Physical Therapy Assessment Assesses your student's gross motor skills and abilities for general or specific activities. Occupational Therapy Assessment Assesses your student's daily living, educational, work, play or leisure motor skills and abilities for general or specific activities. Fine and Gross Motor Development Assesses your student's motor skills and abilities.
<input type="checkbox"/> Hearing		Screens your student for hearing acuity. Includes pure tone testing and impedance testing of middle ear functioning.
<input type="checkbox"/> Vision		Screens your student for visual acuity.
<input type="checkbox"/> Developmental/Medical History		Collects information about your student's developmental progress or medical history.
<input type="checkbox"/> Adaptive Behavior		Assesses your student's skills regarding self-help, independence, and activities of daily living at home, at school and in the community.
<input type="checkbox"/> Emotional/Social/Behavioral		Collects information about your student's social and emotional development. May include rating scales, personality inventories, functional behavioral assessments, behavioral observations, projective tests, personal interviews, and review of records.
<input type="checkbox"/> Transition/Vocational/Occupational		Assesses interests and capabilities related to training, education, employment and independent living skills.
<input type="checkbox"/> Assistive Technology		Assesses the need for a piece of equipment or a product system that is used to increase, maintain, or improve the functional abilities of your student.
<input type="checkbox"/> Other		

Parent and/or Adult Student Response

Student's Name:	District ID:	State ID:	Grade:	Sex:
Native Lang:	Ethnicity:	Birth Date:	Age:	
District:	School:			

The district is asking for your consent to conduct:

- ☐ An initial assessment of the student. The district will not proceed with an initial assessment without your written consent.
- ☐ A reassessment of the student. If you do not give or deny written consent after the district makes reasonable efforts to obtain consent, the district will proceed with the reassessment

After reviewing your rights in the *Procedural Safeguards Notice*, please sign on the appropriate line below and return this form as soon as possible to _____. * For assistance in understanding your rights, feel free to call me or refer to the *Procedural Safeguards Notice* for sources of information on your rights.

Consent

I understand my rights and GIVE CONSENT to conduct this assessment.

Parent/Adult Student Signature

Date

----- OR -----

I understand my rights and DENY CONSENT to conduct this assessment.

Parent/Adult Student Signature

Date

Medicaid

_____ I give my permission for my child's evaluation to be submitted to Medicaid for federal reimbursement of the costs of the evaluation services identified in the attached form 350a. I know that such billing will require that my child's name, birth date and Medicaid number will be used in such billing.

----- OR -----

_____ I do not give my permission for my child's evaluation to be submitted to Medicaid for federal reimbursement of the costs of the evaluation services identified in the attached form 350a. I understand that my denial of permission for such billing will not impact my child's access to necessary educational services.

Date received by the school district

* The *Procedural Safeguards Notice* is generally distributed once annually or at the time of initial referral and at parent request.

Student's Name:	District ID:	State ID:	Grade:	Sex:
Native Lang:	Ethnicity:	Birth Date:	Age:	
District:	School:			
Parent/Guardian Name:	Home Phone:			
Address:				
Native Language:	Daytime Phone:			
Parent/Guardian Name:	Home Phone:			
Address:				
Native Language:	Daytime Phone:			

Case Manager Name:	Telephone Number:
Eligibility Category:	Medical Information:

[illegible]

Student's Name:	District ID:	State ID:	Grade:	Sex:
Native Lang:	Ethnicity:	Birth Date:	Age:	
District:	School:			

Skill Area:

1. Present Level of Performance:**2. General Education Content Standard(s):****3. Annual Goal** (target skill and conditions):**4. Evaluation Procedure** (criteria, procedure, and schedule):**5. Assistive Technology** (if needed):**6. How and When Progress Toward Goals Is Reported:**

Enter report card dates in the 1 st line below.					

Skill Area:

1. Present Level of Performance:**2. General Education Content Standard(s):****3. Annual Goal** (target skill and conditions):**4. Evaluation Procedure** (criteria, procedure, and schedule):**5. Assistive Technology** (if needed):**6. How and When Progress Toward Goals Is Reported:**

Enter report card dates in the 1 st line below.					

***Progress Codes:**

1 = Completed 3 = Not started
2 = In progress 4 = Other:

Progress Projection Codes:

A = Progress is adequate to meet target dates.
B = Progress is inadequate to meet target date.

***Note:** If the student is not progressing according to target dates, parents will be informed.

Student's Name:	District ID:	State ID:	Grade:	Sex:
Native Lang:	Ethnicity:	Birth Date:	Age:	
District:		School:		

1. IEP SERVICES

Service	Position Responsible	Location	Freq.	M Code	Total Service per Week		Start Date	Anticipated Duration
					Hrs	Min		

Location Codes: 01 Gen Ed Classroom 02 Sp Ed Classroom 03 Home 04 Hospital 05 Community 06 Therapy Room	Frequency Codes: 01 Daily 02 Weekly 03 Bi-Weekly 04 Monthly 05 _____ Times Per _____ 06 _____ Times Per _____	Medicaid (M) Codes: IN = Individual HQ = Group HO = Professional HM = Parapro TD = Reg Nurse LP = LPN
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Statement of Service Delivery:**2. OTHER CONSIDERATIONS**

- A. Special transportation is considered a related service. The student requires ☐ Regular ☐ Special ☐ No transportation. Describe if necessary:
- B. Are extended school year (ESY) services required for this student? ☐ Yes ☐ No ☐ TBD.
 If Yes, complete 1 – 6 below.
 If TBD, when: _____, and amend IEP by specified date.
- What are the skills this student will lose as a result of an interrupted educational program and will be unable to recoup so as to make reasonable progress toward achieving the goals and benchmarks/objectives in the IEP?
 - What skills are emerging that require ESY services in order to make reasonable gains?
 - What acquisition of a critical life skill that aids the student's ability to function independently would be threatened by an interruption in services?
 - In what way are the above skills critical to the overall progress of the student?
 - Specify which goals and objectives/benchmarks should be part of the IEP for ESY services.
 - Begin and end dates of ESY: _____. Hours per week: _____
- C. Does the student have limited proficiency in English? ☐ Yes ☐ No. If yes, what native language? _____. Explain what considerations are necessary:
- D. If hearing impaired/deaf, is hearing aid monitoring required? ☐ Yes ☐ No ☐ Not hearing impaired/deaf. If yes, explain what considerations are necessary:
- E. If visually impaired/blind, is Braille required? ☐ Yes ☐ No ☐ Not visually impaired/blind. If yes, explain what considerations are necessary:

Student's Name:	District ID:	State ID:	Grade:	Sex:
Native Lang:	Ethnicity:	Birth Date:	Age:	
District:		School:		

1. ACCOMMODATIONS, ADAPTATIONS, AND/OR SUPPORTS IN GENERAL AND SPECIAL EDUCATION

Accommodations, Adaptations, or Supports	Location	Start Date	Anticipated Duration

2. PARTICIPATION IN STATEWIDE AND DISTRICTWIDE ASSESSMENTS

AC = Accommodations AD = Adaptations IAA = Idaho Alternate Assessment

Participation	Regular	AC	AD	Accommodations or Adaptations
Language Arts				
<input type="checkbox"/> ISAT	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/> DWA	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/> IAA-LA				
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Reading				
<input type="checkbox"/> IRI	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/> ISAT	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/> IAA-R				
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Mathematics				
<input type="checkbox"/> IMI	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/> ISAT	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/> DMA	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/> IAA-M				
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Science				
<input type="checkbox"/> ISI	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/> ISAT	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/> IAA-S				
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

Note 1: Only those accommodations and adaptations listed in No. 1 above **and** regularly used by the student in classroom instruction and classroom testing may be used during statewide or districtwide assessments.

Note 2: Accommodations *do not* invalidate assessment results.

Note 3: Adaptations result in the student being counted as **not proficient** and **not participating**.

Eligibility for a student to take the IAA: The student must meet **all** of the criteria listed below for the IEP Team to determine that the student is eligible to participate in an alternate assessment:

- The student's demonstrated cognitive ability and adaptive behavior prevent completion of the general academic curriculum even with program accommodations and/or adaptations;
- The student's course of study is primarily functional-skill and living-skill oriented (typically not measured by state or district assessments); and
- The student is unable to acquire, maintain, or generalize skills (in multiple settings) and to demonstrate performance of these skills without intensive and frequent individualized instruction.

Document date:

IEP Accomodations

Page of

Student's Name:	District ID:	State ID:	Grade:	Sex:
Native Lang:	Ethnicity:	Birth Date:	Age:	
District:		School:		

3. BEHAVIORAL INTERVENTION PLANNING

- A. Does behavior impede the student's learning or that of others?[☐ Yes [☐ No
- B. If yes, have positive behavior supports been considered?[☐ Yes [☐ No
- C. The positive behavior supports, if needed, are incorporated in the IEP goals.[☐ Yes [☐ No
- D. A behavior intervention plan (BIP), including positive supports, is included below or is
attached to this IEP.[☐ Yes [☐ No

Document date:

IEP LRE Placement & Written Notice

Page ____ of ____

Students ages 6 – 21

Student's Name:	District ID:	State ID:	Grade:	Sex:
Native Lang:	Ethnicity:	Birth Date:	Age:	
District:		School:		

1. LEAST RESTRICTIVE ENVIRONMENT (LRE)*Check one:*

- ☐ The student will participate entirely in the general education classroom, the general education curriculum, and nonacademic and extracurricular activities with nondisabled peers.
- ☐ The student will participate in the general education classroom and curriculum, **except for the following:**
Check and explain all that apply.
- ☐ General education classroom _____

- ☐ General education curriculum _____

- ☐ Non-academic and extracurricular activities with non-disabled peers _____

2. DECEMBER 1 FEDERAL REPORT: EDUCATIONAL ENVIRONMENT FOR AGES 6-21

- ☐ (01) Student is inside the general education classroom 80% or more of the school day. In a 6 hour school day, the student is inside the regular class at least 4 hours and 48 minutes.
- ☐ (02) Student is inside the general education classroom at least 40% but not more than 79% of the school day. In a 6 hour school day, the student is inside the regular class at least 2 hours, 25 minutes, but not more than 4 hours, 47 minutes.
- ☐ (03) Student is inside the general education classroom less than 40% of the school day. In a 6 hour school day, the student is inside the regular class 2 hours, 24 minutes or less.
- ☐ (11) Student is in a district self-contained classroom in a separate special education school for more than 50% of the school day – more than 3 hours in a 6 hour day.
- ☐ (12) Student is placed in a private special education day school / facility at public expense for more than 50% of the school day – more than 3 hours in a 6 hour school day.
- ☐ (13) Student receives education services in a public residential facility for more than 50% of the school day and resides in that facility during the school week.
- ☐ (14) Student receives education services in a private residential facility at public expense for more than 50% of the school day and resides in that facility during the school week.
- ☐ (15) Student receives special education services in a hospital or homebound setting (do not include home-schooled students or virtual charter school students.)
- ☐ (16) Student receives special education services in a detention center or correctional facility.

Note: Determine codes as of student's age on the previous December 1, not yet six on December 1.

Document date:

IEP LRE Placement & Written Notice

Students ages 6 – 21

Page ____ of ____

Student's Name:	District ID:	State ID:	Grade:	Sex:
Native Lang:	Ethnicity:	Birth Date:		
District:		School:		

3. WRITTEN NOTICE

The student will receive the services and placement outlined on this IEP because the student is eligible for special education and the IEP team has determined that this IEP will meet his or her needs.

A. The following options were considered but rejected because:

B. The following evaluation procedures, tests, records, or reports were used as a basis for the IEP:

C. The following information and other factors from parents and other sources were used to develop this IEP:

You have protection under the procedural safeguards of the Individuals with Disabilities Education Act (IDEA, 2004). If you need an explanation or a copy of the *Procedural Safeguards Notice* or have additional concerns, please contact

_____ at _____. After contacting the school if further
Case Manager's Name Building or Phone Number
assistance is needed, you may contact any of the agencies below:

Idaho State Department of Education
208/332-6910
800/432-4601
TT: 800/377-3529

Idaho Parents Unlimited, Inc.
800/242-4785
V/TT: 208/342-5884

Comprehensive Advocacy, Inc.
V/TT: 208/336-5353
V/TT: 866/262-3462

4. CONSENT FOR INITIAL PLACEMENT

☐ I CONSENT to placing _____ in special education. I understand that I can revoke this consent before services begin.

☐ I DENY CONSENT to placing _____ in special education.

Parent or Adult Student Signature

Date

Page of

Student's Name:	District ID:	State ID:	Grade:	Sex:
Native Lang:	Ethnicity:	Birth Date:	Age:	
District:		School:		

Skill Area:

1. Present Level of Performance:**2. General Education Content Standard(s):****3. Annual Goal** (target skill and conditions):**4. Evaluation Procedure** (criteria, procedure, and schedule):**5. Assistive Technology** (if needed):**6. How Progress Toward Goals Is Reported:**Enter report card dates in the 1st line below.

Skill Area:

1. Present Level of Performance:**2. General Education Content Standard(s):****3. Annual Goal** (target skill and conditions):**4. Evaluation Procedure** (criteria, procedure, and schedule):**5. Assistive Technology** (if needed):**6. How Progress Toward Goals Is Reported:**Enter report card dates in the 1st line below.***Progress Codes:**

1 = Completed 3 = Not started
2 = In progress 4 = Other:

Progress Projection Codes:

A = Progress is adequate to meet target dates.
B = Progress is inadequate to meet target date.

***Note:** If the student is not progressing according to target dates, parents will be informed.

Student's Name:	District ID:	State ID:	Grade:	Sex:
Native Lang:	Ethnicity:	Birth Date:	Age:	
District:		School:		

SP SERVICES

Service	Position Responsible	Location	Freq.	M Code	Total Service per Week		Start Date	Anticipated Duration
					Hrs	Min		

Location Codes: 01 Classroom 02 Sped Classroom 03 Home 04 Hospital 05 Community 06 Therapy Room	Frequency Codes: 01 Daily 02 Weekly 03 Bi-Weekly 04 Monthly 05 _____ Times Per _____ 06 _____ Times Per _____	Medicaid (M) Codes: IN = Individual HQ = Group HO = Professional HM = Parapro TD = Reg Nurse LP = LPN
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OTHER CONSIDERATIONS

- A. Special transportation is considered a related service. The student requires ☐ Regular ☐ Special ☐ No transportation. Describe if necessary:
- B. Does the student have limited proficiency in English? ☐ Yes ☐ No. If yes, what native language? _____. Explain what considerations are necessary:
- C. If hearing impaired/deaf, is hearing aid monitoring required? ☐ Yes ☐ No ☐ Not hearing impaired/deaf. If yes, explain what considerations are necessary:
- D. If visually impaired/blind, is Braille required? ☐ Yes ☐ No ☐ Not visually impaired/blind. If yes, explain what considerations are necessary:

ACCOMMODATIONS, ADAPTATIONS, AND/OR SUPPORTS IN GENERAL AND SPECIAL EDUCATION

Accommodations, Adaptations, or Supports	Location	Start Date	Anticipated Duration

BEHAVIORAL INTERVENTION PLANNING

- A. Does behavior impede the student's learning or that of others?[☐ Yes [☐ No
- B. If yes, have positive behavior supports been considered?[☐ Yes [☐ No
- C. The positive behavior supports, if needed, are incorporated in this SP.[☐ Yes [☐ No
- D. A behavior intervention plan (BIP), including positive supports, is attached to this SP.....[☐ Yes [☐ No

Student's Name:	District ID:	State ID:	Grade:	Sex:
Native Lang:	Ethnicity:	Birth Date:	Age:	
District:		School:		

WRITTEN NOTICE

The student will receive the services and placement outlined on this SP because the student is eligible for special education and the SP team has determined that this SP will meet his or her needs.

A. The following options were considered but rejected because:

B. The following evaluation procedures, tests, records, or reports were used as a basis for the SP:

C. The following information and other factors from parents and other sources were used to develop this SP:

You have protection under the procedural safeguards of the Individuals with Disabilities Education Act (IDEA, 2004). If you need an explanation or a copy of the *Procedural Safeguards Notice* or have additional concerns, please contact _____ at _____. After contacting the school if further assistance is needed, you may contact any of the agencies below:

Case Manager's Name

Building or Phone Number

Idaho State Department of Education
208/332-6910
800/432-4601
TT: 800/377-3529

Idaho Parents Unlimited, Inc.
800/242-4785
V/TT: 208/342-5884

Comprehensive Advocacy, Inc.
V/TT: 208/336-5353
V/TT: 866/262-3462

4. CONSENT FOR INITIAL PLACEMENT

[] I CONSENT to placing _____ in special education. I understand that I can revoke this consent before services begin.

[] I DENY CONSENT to placing _____ in special education.

Parent or Adult Student Signature

Date